TO SUBSCRIBERS.—*Subscribers desiring to receive their copies post free are requested to forward the amount of their subscription (£2 8s. for the first year, including the* WEEKLY REPORTER *from the 8th of November last) by Post-office order or otherwise, payable to the Secretary of the Company,* MR. WILLIAM SHAEN.

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*** *It is particularly requested that any error or delay in the transmission of this Journal to Subscribers may be immediately communicated to the Editor.*

It is proposed henceforward to curtail, in several particulars, the abstracts of the Gazettes. It is believed that the space they filled may be otherwise occupied much more to the satisfaction of the great majority of Subscribers.

THE SOLICITORS' JOURNAL.

LONDON, APRIL 11, 1857.

THE REGISTRATION REPORT.

We print elsewhere the report of the Registration Commission. All the leading points which had to be decided before a working scheme could be framed will there be found fully and ably discussed; and we think that few who study the report with care will hesitate to concur in the Commissioners' conclusions as to the general form which the machinery of registration should be made to assume. The part of the proposed arrangements which is most open to question is, the suggestion of separate registers for ownership, charges, and leases. With respect to the last, it is certainly true that the interests created under building leases are, in ordinary dealings, seldom mixed up with the estate of the freeholder; and this is, perhaps, a sufficient reason why they should have a special register, on which the title to the term may appear, instead of leaving it in the position of an equitable or unregistered ownership, subordinate to the registered fee. Neither can it be denied that some advantages would result from having a distinct register of all the incumbrances on each estate. It would be no small gain, that every man who advanced his money would know at once the priority to which he was entitled, and the amount of the earlier charges on the inheritance. On the other hand, it is not very clear how the Commissioners propose to reconcile this system with the continuance of the facility which is now enjoyed by the owners of real property for raising money by a deposit of title-deeds.

We believe that no system of registration will be satisfactory to the commercial world which has the effect of disclosing to any curious inquirer the extent to which the real property of a merchant may, at any time, be mortgaged; and, in principle, the Commissioners fully recognise the necessity of maintaining intact the facilities of obtaining temporary loans without the publicity of registration. Indeed, they consider it one of the strong points of their proposed method of registration, that it would improve the security of lenders by way of equitable mortgage. So far as the details of this part of the scheme are shadowed forth by the report, the idea seems to be, that every registered landowner shall, upon registration, receive a certificate, and that, on every transfer of the registered ownership, the old certificate shall be cancelled, and a new one issued to the transferee. This, in fact, is just what is done by railway companies on transfers of stock; and if the land registration were confined to a single record of ownership, as is the case with stock, it is clear that the possession of the certificate would effectually prevent a fraudulent transfer, and would place the mortgagee with whom it was deposited in perfect security. But the working of the scheme would be somewhat less simple if a register of incumbrances were created, as suggested, side by side with a register of ownership. The Commissioners recommend that the priority of charges shall depend on the order in which they may be placed on the register of charges, and that unregistered charges shall be protected only in the same way as other unregistered interests. The protection to be afforded to such interests is by means of inhibitions or caveats, which are to operate like stop-orders on a fund in court, or distringases on stock, and to prevent any dealing without notice to the person by whom the caveat may have been entered. This would suffice in all cases where no objection existed to the entry of a caveat; but we should think that a man who had raised money by a deposit which he wished to keep secret, would be loath to see the name of an assurance office or of a Jew discounter figuring among the caveats entered against his property. In point of fact, there would be almost as much publicity by such a course as if the incumbrance were regularly entered in the list of registered charges, the only difference being that the caveat need not disclose the amount of the loan. It is quite clear, therefore, that some means must be found for protecting lenders on deposit other than a system of caveats, which is free enough from objection when used merely to guard the ulterior interests under a settlement. The only way in which such loans could be made perfectly secure without publicity would be by giving to the mere possession of the certificate the same power of preventing any dealing with the land which would be obtained by entering a caveat. For this purpose it would only be necessary to enact that no fresh charge should be entered on the register without the production of the old certificate, and that all such incumbrances should thereupon be indorsed upon the certificate before it is restored to the hands of the owner. If this were done, the depositee of a certificate would be in a better position than an equitable mortgagee enjoys now. It is possible, though not always very easy, for a fraudulent mortgagor to create a legal mortgage after having deposited his deeds to secure an advance. If he can succeed in explaining the absence of the deeds, so as to blind the legal mortgagee, the effect is, in the absence of gross negligence on the part of the second incumbrancer, to give him priority over the equitable charge which was first created; and many hard cases have occurred in which equitable mortgagees have been deprived in this way of their security. But if the production of the certificate were a *sine quâ non* to the creation of a new registered charge, the person with whom the document was deposited might rest assured that nothing which could happen behind his back could possibly invalidate his security on the land.

We have been led to enlarge on the necessity of a provision of this kind, because the report itself is not very explicit on the subject; and the bill which is added, by way of appendix, seems to contemplate the creation of charges by the mere written consent of the registered owner, without requiring the certificate to be produced. In this form, the measure would trench very seriously on the power of raising money easily, or lending it safely, upon a deposit; and some such provisions as we have mentioned seem to be needed to remove all doubt as to this essential point. It is, perhaps, not quite fair to criticise the details of a bill which the Commissioners put forward rather as a specimen to show the possibility of carrying a scheme of registration into practice, than as a perfect measure, which they are prepared to introduce without alteration. In some respects, indeed, the Commissioners tell us that the bill differs from the recommendations contained in the report, and the subject is besides so complicated that no measure ought to be treated as finally approved until it has been thoroughly ventilated in the profession, as was done with the only successful statutes which have been passed in modern

times on the subject of real property law. In pointing out what appears to be a serious omission in the present draft, we are not seeking to cavil at the work for which the profession has good reason to be grateful to the Commission, but rather to contribute our mite of suggestion towards a valuable reform. There are other parts of the measure to which we shall hereafter have to refer, but the importance of preserving the facilities for temporary mortgages is so fully recognised by the report, and is so obvious in itself, that any doubt as to the operation of the scheme on such transactions seemed to call for our earliest attention. Registration affords the means of greatly facilitating loans of this description, and it is the more essential that the general scheme should not be impaired by a want of precision in so material a point.

BUSINESS IN THE CHANCERY OFFICES.

We printed in our paper of the 28th ult. a letter which had appeared in the *Daily News*, complaining that what are called the "reforms" of the Court of Chancery, are really undeserving of such a name, and professing to describe with minute accuracy a course of delay, trifling, and imbecility by which the patience as well as the purse of the suitor is exhausted, and the ancient infamy of the Court preserved in spite of all that has been done for its regeneration. Now it is not going too far to say that every material allegation in this letter may be entirely disproved, as we hope presently to show; but at the same time we are bound to admit that unnecessary delays do occur in the offices of the Court of Chancery, and that some expectations founded on the important reforms inaugurated a few years ago remain at this hour unfulfilled. We must, however, be allowed to add that the solicitors of the Court are not responsible for these shortcomings, and that they are in many cases to be attributed to the neglect of practical suggestions which have been urged upon the authorities by solicitors, with far more public spirit and perseverance than success for the proposal or credit to those who have originated it. The popular notion, we are quite aware, is that the solicitors contrive and preserve all these impediments to the free course of business, and that they are personally interested in so doing. But this is a double fallacy. Some reforms now in operation, and others which we hope in time to see adopted, were first suggested, and have been over and over again recommended by solicitors. And, although there may be a few large offices which, having as much business on hand as they can do or wish to do, and perhaps a great deal more, do find a gentle and often intermitted course of proceeding suit their habits and arrangements best; it is quite certain that the great majority of the profession would discover their true advantage in every change which tended to simplify and accelerate the progress of litigation in our courts.

The writer in the *Daily News* complains, firstly, of the manner of proceeding in the chambers of the Chancery judges, where the business formerly done with marvellous procrastination and expense in the Master's office, is now conducted, very much more cheaply and expeditiously. He represents that "instead of proceeding day by day, until the matter be exhausted, a month generally intervenes between one attendance before the chief clerk and another, and then half the time is frittered away in endeavouring to retrace what had been done on the former attendance." Now, we believe the truth to be that the chief clerks have really too much to do, and that it would be advisable either to increase their number or to relieve them of a portion of their routine duties by the appointment of junior clerks. It may also be observed that, in the opinion of many experienced solicitors, the progress of business would be much facilitated by enabling the judges to devote more of their time to chambers. This, however, would not be possible unless the number of judges were increased. It may often happen that a long discussion will be carried on before the chief clerk, who, after all, perhaps, declares himself unable to decide the question in dispute, whereas, if the judge had been in chambers and accessible, a few minutes of his attention would have sufficed to solve the difficulty. It is, of course, always possible to adjourn questions of legal nicety for discussion by counsel in open court; and many persons hold that this is the preferable course. We doubt, however, whether that opinion is founded upon an extensive practical acquaintance with the character of the business done in chambers. Suppose the Bankruptcy courts to be organised on a similar principle to the Chancery judges' chambers, we should then have the great mass of business disposed of by an officer of equal qualifications with a judge's chief clerk, and questions of special difficulty would be delayed for final argument and decision by a judge. Would the bankruptcy business be despatched with anything like the same facility as under the present system? We cannot doubt that the answer to this question must be in the negative. We are, of course, aware that solicitors appear before the judge at chambers, whereas counsel would be employed in court; and it may, perhaps, be suggested that we have an interested motive in advocating the employment of solicitors rather than of the bar. But it is scarcely necessary to point out that in this respect, at least, the interest of the lawyers and of their clients is absolutely identical. Whatever tends to improve the efficiency of the Court of Chancery, and to remove every lingering trace of the prejudices that once prevailed against it, tends also to benefit alike the counsel and solicitors practising in that court. It would be blind and suicidal folly to allow any jealousy between the two branches of the profession to interfere with the impartial examination of every suggestion for reform.

But even if the staff of judges and clerks were made as perfect as can be conceived possible, it would not generally be found convenient to proceed "day by day until the matter be exhausted," as is demanded by the writer in the *Daily News*. A suitor very naturally forgets that he is not the only client, nor is his the only suit existing in the world. His business cannot, under any imaginable system, command the undivided time and attention of his own and several other solicitors, and of the judge's clerk. This can never be effected until there are as many solicitors and judge's clerks as suitors. If this writer went into a barber's shop on Sunday morning to get shaved he would have to wait his turn, and surely he ought not to complain of the same regular rotation at the judges' chambers. Besides, let him inquire how long an arbitrator appointed at common law, or any judge or court at home or abroad, would take to examine accounts of equal length and complication to those constantly investigated at chambers. The Chancery procedure, even as at present organised, and open as we say it is to improvement in various ways, would certainly not suffer by comparison with any other tribunal charged with business of equal difficulty. It would be impossible to proceed from day to day in taking accounts, unless the case on each side as to every item in these accounts were complete at all points, before the first appointment to proceed. But this is quite impracticable, unless, indeed, the discovery of the truth is to be made subordinate to rapidity of procedure. One side, perhaps, produces affidavits which might have been, and were, ready in the first instance. The other side hereupon desires to produce affidavits in answer, and then it may appear expedient to cross-examine *vivâ voce* the deponents on both sides. For these, and many other equally valid reasons, it is often found convenient to proceed at intervals of perhaps a fortnight, instead of from day to day. But to say that "a month generally intervenes" between the appointments, is a gross exaggeration; and to pretend that "half-an-hour only" is "usually allotted" to each appointment, is altogether contrary to fact. How a writer who professes to be familiar with "the practical working of the system," could hazard such a misstatement, we cannot understand. There is usually no difficulty at all in obtaining an appointment for two or three hours, at the distance not of a month, but of ten or fourteen days. Certainly, we must admit that, even at a fortnight's interval, some short time would necessarily be occupied in retracing what had been done on the last occasion. But if the appointment be for two or three hours, instead of half-an-hour, as alleged, the time thus employed would form but a small proportion of the whole attendance; and if adjournment be, in many cases, inevitable, we must submit, so long as the faculties of chief clerks are merely human, to the delay required for "brushing up their memories." We should add that, in short and simple cases, there is no difficulty in obtaining an appointment for half-an-hour on an early day, and often the clerk's attention may be secured for that length of time without any appointment having been made.

The next important allegation of this letter, that "the chief clerk requires to be furnished with a duplicate of every document and paper filed, for his own use," is singularly at variance with the truth. By the 23rd Order of 16th October, 1852, regulating the course of proceeding at chambers, it is provided that "no states of facts, charges, or discharges, are to be brought in. But, when directed, copies, abstracts, or extracts, of or from accounts, deeds, or other documents, and pedigrees, and concise

statements are to be supplied for the use of the judge and his chief clerk." Now, under this order, so far from "formidable sums" being "squandered away for superfluous documents," as represented by the writer in the *Daily News*, it may well be doubted whether the opposite error of too strict economy has not been committed, and whether the course of business is not frequently impeded by the absence of those very copies of proceedings and documents, which, it is said, are unnecessarily multiplied. One could accept almost any statement as to the cost of the Royal British Bank litigation, except the particular fiction which has been hazarded in the *Daily News*. We do not believe that £5,000, or any sum near that figure, has been wasted in making useless copies to stuff the "ponderous portfolio" of the chief clerk at chambers. In the Master's Offices, an expensive and cumbrous system prevailed of carrying in either copies or proceedings, which differed from copies in little, except that they were far more costly. The Chancery Commissioners, in their anxiety to reform this practice, appear to have run into the opposite extreme. Probably, if printing were more extensively used in Chancery proceedings, the course of business at chambers would be facilitated without additional expense. It would be necessary, however, to take care that the already diminished remuneration of the solicitor should not be still further reduced by the substitution of print for copying without any equivalent for his loss of profit.

In dealing with the Taxing Masters, this writer is as unfortunate in the points he selects for censure, as we have shown him to be in his remarks upon the judges' chambers. In taxing a bill of costs it is necessary to show that the fees charged have been paid to counsel, and that the pleadings contain the number of folios stated in the bill. The practice used to be to produce the necessary evidence to the master who taxed the costs. Afterwards it was very reasonably thought that the verification of these details did not require the attention of an officer very highly paid, and who ought to be very highly qualified. It seemed to be work, not for the taxing master, but for a clerk of ordinary faculties and moderate stipend. The change made was exactly that which we think might now, to some extent, be advantageously imitated in the judges' chambers. It certainly is not necessary to pay a man at the rate of £1,000 or £2,000 a-year to see that a proper voucher is produced for a fee to counsel or for an infant's schooling. And yet the writer in the *Daily News* denounces as "a prolific source of delay, expense, and vexation," a reform so obvious and undeniable that the only wonder is how it came to be so long postponed, and why it has not been more generally adopted. But this is all the thanks that lawyers and laymen get for labouring to improve the Court of Chancery. Their reforms are called "deforms," and writers affecting a knowledge of detail only too sure to impose upon the public enormously exaggerate evils which are, to a great extent, inevitable, and then attribute them to the very changes which appeared most necessary, and which, if fairly understood, the common consent of mankind would pronounce to have been most judicious.

Legal News.

A recent number of the *Manchester Guardian* contains a report of a public meeting held at Manchester to adopt resolutions in favour of holding separate assizes in that town for the hundred of Salford. It is intended to present a memorial, agreed to at this meeting, to the commission now inquiring into the arrangements of the circuits, and we think that both the position of the memorialists and the strength of the claim they urge well entitle them to the attention of the commissioners. We published in our impression of the 14th ult. the substance of a memorial on this subject, presented by the Manchester Law Association to the commission, and we regret that the great length of the Registration Report forbids our giving in our present number any further notice of the proceedings at this important meeting. In order to make room for the report, which we print entire, we have been obliged either to omit or curtail much of the usual contents of our Journal.

SIR F. KELLY ON REGISTRATION AND LAWYERS' BILLS.—In the course of his address to the electors of East Suffolk, on Wednesday week, Sir F. Kelly, said:—"There is one measure, and one only which I will detain you by alluding to, because it is one specially affecting the interests of the inhabitants of this county, of all counties in general, affecting those who are closely connected with what is called the landed interest. It is a measure upon which I have bestowed the greatest attention, a measure for what is called the Registration of Titles, for simplifying and cheapening the conveyance, the mortgage, or dealing in any way with land. There is probably no one among you who has not at one period of his life, either bought a piece of land, or sold a piece of land, or mortgaged a piece of land, or lent money upon the mortgage of a piece of land, or done something or other in which the title to the land had to be investigated. If that be so, that person, whoever he may be, knows well what an attorney's or lawyer's bill means. I mean to speak with the greatest respect, and, I may add, with the greatest forbearance, of my many excellent friends belonging to that department of my own profession, but I do say that it is a great grievance, that if a man possesses a thousand pounds in stock he can go up to London, or by signing a power of attorney, can, without any expense at all, sell that stock, and put the money into his pocket, while, if he has to sell a piece of land, for half a thousand pounds, he may be put to £60 or £70 expense for conveyance and lawyers' bills. I have framed a measure, and if the Government will support me in it, before long, when I meet you again, I shall have to tell you that I have passed a measure, so far simplifying and facilitating the dealing with land that you may mortgage it, or deal with it in any way you please afterwards. I mean, of course, except as to stamps and duties—those are matters of fiscal revenue with which we cannot interfere, but, with that single exception, you may deal with land as you may deal with stock in the funds, and get rid of these unfortunate lawyer's bills, which I confess are a great grievance." These observations have called forth the following letters addressed to the Editor of the *Ipswich Journal*, by solicitors practising in that town.

SIR,—Sir Fitzroy Kelly, in his speech from the hustings on Wednesday last, after mentioning the facility with which a man may sell £1,000 in the funds, and suggesting that probably there were few of his audience who had not been concerned in the sale, or purchase, or mortgage of land, added that if the same man should have to sell a piece of land for £500, he might be put to £60 or £70 expense for Lawyers' Bills.

Knowing this to be a most exaggerated statement, we, who represent five "lawyers'" establishments in Ipswich, have extracted from our books all the cases in which we have, during the last three years, acted in sales, purchases, and mortgages for £500 and under, and the result is as follows;—We have conducted 114 of such sales at an average cost of £7 11s. 1d.; we have conducted 196 of such purchases at an average cost of (exclusive of stamps) £6 5s. 9d.; and we have conducted 139 of such mortgages, also, at an average cost (exclusive of stamps) of £6 5s. 9d.

We have no reason to suppose that the charges in Ipswich are materially lower than those in other places, and, assuming this to be the fact, we think that we, and the profession at large—aye, and the public also—have reason to complain that a man, in the high legal position of Sir Fitzroy Kelly, should make so unfounded a statement as that we have mentioned.

We do not complain that he, or any others, who aspire to be distinguished as law reformers, should attempt to simplify and cheapen the present system of transferring land. If it be (as is asserted, but which we doubt) an impediment to transfer, we should, by an appropriate alteration (if such be possible), receive our compensation in the increased extent of business. But we do complain that he, and others, should commence their labours without being well informed as to the facts with which they propose to deal; and, still more, that they should, on an imperfect knowledge of the subject, seek to excite a popular clamour against a branch of the profession as honourable as their own.

Unless the bill, which Sir Fitzroy Kelly says he has in readiness, is based upon more accurate practical information than his recent statement, we may safely venture to predict that it will end in disappointment to himself as the promoter, and to the public whose expectations he has raised.

We are, Sir, your obedient servants,
S. B. JACKAMAN.
STEWARD and RODWELL.
GEO. JOSSELYN.
ALFRED COBBOLD and YARINGTON.
WM. BUNN.

Ipswich, 2nd April, 1857.

LAW LECTURES.—TRINITY TERM, 1857.

Prospectus of the Lectures to be delivered during the ensuing Educational Term, by the several Readers appointed by the Inns of Court:—

CONSTITUTIONAL LAW AND LEGAL HISTORY.

The Public Lectures to be delivered by the Reader on Constitutional Law and Legal History will comprise the following subjects:—

The Reign of Anne, and the Character of the Government of George I. and George II.; the Progress of our Jurisprudence, the State Trials, and the Proceedings of Parliament during that period.

The Public Lectures will be delivered in Lincoln's-inn Hall, on Wednesdays, at 2 p.m., commencing on April 15.

In his Private Classes the Reader will proceed from the reign of William III. down to the year 1782.

Books.—Millar's "View of the English Constitution;" "The State Trials of the Period;" "Statute Book;" "Rapin's History;" Hallam's "Constitutional History."

The Private Lectures will be delivered in the Benchers' Reading-room, on Tuesdays, Thursdays, and Saturdays, at 9½ to 11½ a.m., commencing on April 16.

Equity.

The Reader on Equity proposes to deliver, during the ensuing Educational Term, twelve Lectures on the following subjects:—

1. On the Doctrine of Performance and Satisfaction.
2. On the Implied Substitution of one gift for another.
3. On Election.
4. On the Jurisdiction exercised by Courts of Equity concurrently with Courts of Law, and on the Amalgamation of Common Law with Equity.
5. On the Jurisdiction of Equity in matters of Account.
6. On Partnership.
7. On Frauds remediable in Courts of Equity.

The Public Lectures will be delivered, in Lincoln's-inn Hall, on Thursdays, at 2 p.m., commencing on April 16.

The Reader will continue with his Senior and Junior Classes the general course of Equity already commenced. He will also continue in the Senior Class, and commence in the Junior, to explain the Leading Rules of Pleading in Equity from the work of Lord Redesdale.

The Private Lectures will be delivered, in the Benchers' Reading-room, on Mondays, Wednesdays, and Fridays, at 3¼ and 4¼ p.m., commencing on April 17.

Law of Real Property, &c.

The Reader on the Law of Real Property, &c., proposes to deliver, in the ensuing Educational Term, a course of twelve Public Lectures on the following subjects:—

1. The Devolution and Transmission of Powers and Trusts for Sale.
2. The Law of Mortmain.
3. Attendant Terms; the Satisfied Terms Act, 8 & 9 Vict. c. 112.
4. The Statute 8 & 9 Vict. c. 106.
5. The Law of Dower.
6. The Apportionment of Rent and Annuities.

The Public Lectures will be delivered, in Gray's-inn Hall, on Fridays, at 2 p.m., commencing on April 17.

In his Private Classes, the Reader on Real Property Law will refer more particularly to the leading cases cited in the Public Lectures. He will also discuss the forms of Requisitions to be made on the Investigation of Titles shown upon abstracts delivered by vendors to purchasers, and the nature of the evidence required by conveyancers in proof of such titles.

The Private Lectures will be delivered, in the North Library, on Mondays, Wednesdays, and Fridays, at 11¾ to 1¾ p.m., commencing on April 20.

Jurisprudence and the Civil Law.

The Reader on Jurisprudence and the Civil Law proposes, during the ensuing Educational Term, to deliver twelve Public Lectures on the following subjects:—

The Sources of Personal Law; the Early History of the Law of Property; the Early History of the Law of Contract, and the Mature Jurisprudence of Rome on the subject of Contract; the Law of Testaments, its Ancient and Modern History; the Roman Law of Civil Process.

The Public Lectures will be delivered, in the Middle Temple Hall, on Tuesdays, at 2 p.m., commencing on April 21.

The Reader will, with his Private Class, consider the subject of Roman Law in its bearing on Modern Jurisprudence, using, as his text-book, the *Systema Juris Romani Hodie Usitati* of Mackeldey (Leipsig, 1847).

The Private Lectures will be delivered, at 4, Garden-court, Temple, on Tuesdays, Thursdays, and Saturdays, at 3¾ p.m., commencing on April 23.

Common Law.

The Reader on Common Law proposes to deliver, during the ensuing Educational Term, twelve Public Lectures, of which three (prior to the recess) will be in continuation of the subject treated of in the preceding course, and the nine remaining Lectures will be devoted to Criminal Law and matters therewith connected. The programme of the Lectures will be as under:—

Lectures 1—3 will treat of Mercantile Law generally, Mercantile Persons, and Instruments.

Lecture 4 will be introductory to the subject of Criminal Law.

Lectures 5—7 will treat of Proceedings at the Police Court, or before the Committing Magistrate; Sir J. Jervis's Acts; Superior Courts of Criminal Jurisdiction; the Indictment, its office and nature.

Lecture 8.—The leading provisions of Lord Campbell's Acts will herein be considered and explained.

Lectures 9—12 will be occupied in analysing and defining Offences of ordinary occurrence, triable at Quarter Sessions and the Assizes, and in directing attention to the Rules of Evidence appropriate to their investigation.

The Public Lectures will be delivered, in the Inner Temple Hall, on Mondays, at 2 p.m., commencing on April 20.

With his Class the Reader on Common Law will examine minutely the subjects above specified, illustrating them by reference to the most important recent cases, and to the following works:—*Smith's Mercantile Law and Leading Cases; Archbold's Criminal Pleading* (by Welsby); *Greaves' Edition of Lord Campbell's Acts*; and *Taylor on Evidence* (2nd edit.).

The Private Lectures will be delivered, in the Inner Temple Hall, on Tuesdays, Thursdays, and Saturdays, at 11¾ to 1¾ p.m., commencing on April 21.

By order of the Council,

(Signed) Francis Whitmarsh,
Chairman *(pro tem.)*.

Council Chambers, Lincoln's-inn, March 27.

Note.—The Educational Term commences on the 15th April, and ends on the 31st July, subject to a deduction of the days intervening between the end of Easter and the beginning of Trinity Law Terms. The Public Lectures and Private Classes will be suspended after Friday, the 8th day of May next, and will be resumed, at the appointed days and hours, on and after Thursday, the 28th of May.

Chancery Vacation Notice.—The Chambers of the Vice Chancellor Sir R. T. Kindersley will be open on Tuesday, the 14th April, for the transaction of Vacation business.

Recent Decisions in Chancery.

There are, in the books, a great number of cases turning upon the widow's election between her right to dower and under her husband's will. In the modern cases of *Ellis* v. *Lewis* (3 Hare, 310), and *Gibson* v. *Gibson* (1 Drew. 42), the law on the subject has been very fully discussed, and does not now appear to be open to much doubt. It seems to be well settled that where the widow's claim under the will is not inconsistent with her right to dower—where she may consistently enjoy her legal interest paramount to the will, and her testamentary interest under it—the Court will not put her to elect. "A devise of lands, *eo nomine*," said Sir *J. Wigram*, V. C., in *Ellis* v. *Lewis*, "upon trust for sale, or a devise of lands, *eo nomine*, to a devisee beneficially, does not, *per se*, express an intention to devise the land otherwise than subject to its legal incidents, that of dower included. There must be something inconsistent with the enjoyment by the widow of her dower by metes and bounds." *Birmingham* v. *Kirwan* (2 Scho. & Lef. 444), and some other decisions, are to the same effect. The question remains, however, as to what is to be considered as exhibiting an intention to exclude the widow from her dower; and on this, considerable difference of opinion among the judges is observable in their decisions. Some, with Lord *Alvanley*, in *French* v. *Davies* (2 Ves., jun., 578), throw upon the party claiming against the widow the entire onus of showing, by "clear, plain, and incontrovertible proofs, that the testator could not possibly give what he has given consistently with her claim of dower;" and have held, therefore, that a widow is not put to her election between her dower and an annuity under her husband's will (*Greatorex* v. *Cary*, 6 Ves. 615); or a devise to her for life of a mansion-house and the land held with it, being part of the same estate out of which she claimed dower (*Lord Dorchester* v. *Earl of Effingham*, Coop. 319). Others have considered an annuity as inconsistent with dower, as where all the testator's lands subject to the annuity were given by the will of the testator upon other trusts. In such a case (*Villareal* v. *Lord Galway*, Ambl. 682), Lord *Camden* held that there was a necessary implication to bar the dower, because the disposition of the testator's property was such as to leave no fund for her claim of both; and he considered it to be exactly the same thing whether the testator had said she should be barred, or had so disposed of his property as to leave no fund to answer the double claim. In the recent case of *Bending* v. *Bending* (5 W. R. 435), the effect of a devise in trust for sale in putting the widow to her election was discussed. In that case, V. C. *Wood* followed the rule laid down by Lord *Thurlow* in *Foster* v. *Cooke* (3 Bro. C. C. 347), and repeated (as stated above) by Sir *James Wigram* in *Ellis* v. *Lewis*. The testator, in *Bending* v. *Bending*, directed his executors to sell all his freehold and copyhold estates, and gave half of the proceeds to his wife absolutely. She also took the same proportion of his personalty. The question was, whether she was also entitled to dower? The Vice-Chancellor held that she was, there being nothing in the will inconsistent with the right of the widow to have her dower set out by metes and bounds.

In *Cox* v. *Bishop* (5 W. R. 437) it was held by the Lords Justices, reversing the decision of the Master of the Rolls, that equitable assignees of a legal term of years, subject to reserved rents and covenants, were not liable, in equity, after they had parted with their interest, to be sued by the lessor for rent payable and breaches of the covenants accrued during the term of possession and enjoyment by them, under their equitable assignment; inasmuch as the rights of the lessor, whatever they were, were legal rights, and could be enforced at law. The question was substantially the same in principle as arose in *Walters* v. *The Northern Coal Mining Company* (4 W. R. 140), similarly decided by the Lord Chancellor little more than a year ago.

In *Denne* v. *Light* (5 W. R. 430) the owner of a small piece of arable land, part of an uninclosed common field, surrounded on all sides by the land of other persons, contracted to sell it to a person who lived in the neighbourhood. The contract was silent as to any right of way; but it appeared that there was a custom for the owners of pieces of land within the common field to pass over one another's land at a certain time of the year. The nature or extent of the custom, however, was not in evidence. The purchaser objected to complete the contract, upon the ground that the contract implied a cartway, the land being arable; and upon appeal from V. C. *Stuart*, the Lords Justices decided in favour of the objection, it not appearing upon the evidence, to the satisfaction of the Court, that the purchaser was aware of the rights of the surrounding proprietors; and there being evidence to show that the vendor made representations inducing the purchaser to believe that there was an undoubted right of way to the field in question. L. J. *Turner* said, that it was not consistent with the principles of a court of equity to enforce such a contract, without a way for carts and carriages, as such a course would be, in fact, to make a purchaser pay for what he could not enjoy.

Cases at Common Law specially Interesting to Attorneys.

CONTRACTS OF SALE—ORDER FOR GOODS TO BE MADE "AS SOON AS POSSIBLE."

Attwood & Another v. *Emery*, 1 C. B. (N. S.), 110.

This case decides the legal intendment of an expression often used in contracts of sale—viz., an engagement to furnish goods still in the course of manufacture "as soon as possible." The plaintiffs were iron merchants, and the defendant a cooper. The defendant having occasion to finish a large number of casks within a limited time, asked the plaintiffs' manager within what time he could execute an order for iron hoops, and his answer being satisfactory, the defendant afterwards sent a written order for the quantity required (about fifteen tons), requesting that the hoops might be delivered *as soon as possible*. Ultimately, the hoops not being delivered in time for his purpose, the defendant was obliged to procure them elsewhere, and consequently wrote to the plaintiffs, explaining this, and saying that he could not take the hoops ordered; but the plaintiffs returned for an answer that they had already forwarded a portion, and that the remainder would follow forthwith, and refused to accept the countermand; and the defendant persisting in his refusal to receive them, the present action was brought for not accepting and paying for the goods ordered. The jury at the trial returned a verdict for the plaintiffs, but leave was reserved to the defendant to enter a verdict if the Court above should be of opinion either that the plaintiffs were bound to procure the articles elsewhere, in case they were unable to make them themselves at once, or that they were bound to lay aside every other work in order to proceed to the execution of this particular contract. It was now argued on behalf of the plaintiffs, that they were, by the terms of the contract on which they sued, only bound to deliver the hoops within a reasonable time, regard being had to the means they possessed of executing the order, and to the quantity of work they might happen to have in hand. And this construction was acceded to by the Court; for, as remarked by *Williams*, J., the plaintiffs could not be supposed to be contracting without regard to orders which they had already received, and which were entitled to priority of execution. If the defendant had desired to have the goods by a limited time, he should have taken care to give a more limited order.

ATTORNEY—RESPONSIBILITY OF, FOR ACTS DONE BY CLERKS.

Re W. V. Eyre, Palmer v. *Evans* 1 C. B. (N. S.) 151.

This was a rule calling on Mr. E., an attorney of the court, to answer the matters contained in certain affidavits, wherein it was alleged that he had obtained from the defendant an excessive sum for costs, upon an untrue assertion that judgment had been signed, and execution issued. The affidavits used in showing cause failed to satisfy the Court that the alleged extortion had not been practised, but did satisfy them that Mr. E. was not *personally* cognisant of the matter. And certain observations now fell from the Court, which, on account of the importance of the subject, here follow entire: "It seems that there has been very improper conduct on the part of some one in Mr. E.'s office, in extorting from the defendant an excessive sum for costs, under the false pretext that something had been done, which, in fact, had not been done. It does not, however, appear that the matter came personally to the cognisance of Mr. E. But, inasmuch as it was done in his office, and by a person for whose acts he is responsible, and as he received the money, we think he is so far implicated as to make him responsible. It is our duty to see that the power which the law has placed in the hands of the plaintiff and his attorney is not made an instrument of extortion and oppression. We think the justice of the case will be answered by discharging this rule, on Mr. E.'s refunding the amount received by him in excess, and paying the costs of the rule."

In connection with this case, another decision of the same Court should be noted, viz. that of *Dunkley* v. *Farris* (11 C. B. 457), where an attorney's *clerk* had fraudulently simulated the court seal upon a writ of summons, and the court set aside the writ and all proceedings thereon, and ordered the *attorney* (though blameless personally) to pay the costs.

Registration of Title.

REPORT OF THE COMMISSIONERS APPOINTED TO CONSIDER THE SUBJECT OF THE REGISTRATION OF TITLE WITH REFERENCE TO THE SALE AND TRANSFER OF LAND

TO THE QUEEN'S MOST EXCELLENT MAJESTY IN HER HIGH COURT OF CHANCERY.

In pursuance of your Majesty's Commission authorising and appointing us to consider the subject of the Registration of Title with reference to the sale and transfer of land, and generally to inquire into and consider the advantages and disadvantages attending such a system, we, your Majesty's Commissioners humbly beg leave to present to your Majesty the following Report:—

1. *Origin of Inquiry.*]—The issuing of this Commission was recommended by a Select Committee of the House of Commons, to whom a bill for the registration of assurances, and certain other bills for facilitating the sale and transfer of land, were referred for consideration during the Parliamentary session of 1853. Under these circumstances we deem it right to advert to the report of that committee and the evidence appended to it, in order that we may ascertain and constantly bear in mind the full scope and object of the inquiry, which, by your Majesty's command, we have undertaken.

2. *Report of Select Committee of the House of Commons on Registration of Assurances Bill*, 1853, *and other Bills.*]—We find that three bills were submitted to the consideration of the committee, the first of which had been sent down from the House of Lords. These bills were intitled: 1. A bill for the registration of assurances. 2. A bill to facilitate the sale and purchase of land. And 3. A bill to facilitate the transfer of land in Ireland. The committee reported that the first of these bills contained within itself two distinct principles of registration; the one, contemplating the registration of all assurances in any manner relating to land, and the legal or equitable estate and interest therein; the other, proposing that the legal title alone should be entered in the registry, and that there should be no necessity to register the instruments which declare or transmit the beneficial interest or equitable ownership. They also stated that the two other bills proceeded upon a principle similar to that referred to as contained in the first bill, namely, the principle of keeping the registered ownership wholly separate and apart from the equitable right or title. And they further observed, that "pursuing that idea, and confining their attention to that principle, they had examined some witnesses of high professional reputation, who had brought under their notice a scheme for the registration of title or of legal ownership, which, if it could be fully developed and made capable of easy practical operation, would appear to them to fulfil the most important conditions of registration, and to afford the means of insuring great

facility for the transfer of land combined with great simplicity and security of title."

The advantages to be derived from some system of registration of land are therefore assumed by the committee, provided that the difficulties which have hitherto stood in the way of a practical settlement of this important question can be removed or obviated.

3. *Evidence made use of in this inquiry.*]—In prosecuting our inquiries, we have availed ourselves of the labours of former commissioners, especially the second report of the real property commissioners in 1832, and the report of the registration and conveyancing commissioners in 1850. We have also consulted the report of the commissioners appointed to inquire into the working of the Encumbered Estates Court in Ireland in 1855, and the evidence taken before the select committee of the House of Commons on the registration of assurances in 1853, and we have referred to the report in 1856 of the select committee of the House of Commons on the Court of Chancery (Ireland) bills.

We have further directed a series of questions to be circulated in different parts of the kingdom among persons practically acquainted with the subject; and these questions, together with the answers thereto, will be found in the Appendix. We have likewise examined some witnesses *vivâ voce*, partly with the view of ascertaining more accurately the nature of the plan submitted to the House of Commons in 1853; partly to obtain information on the subject of maps, which afford, in the opinion of many persons, the best means of describing and identifying landed property, and indexing registered titles of it; and partly to learn how the system of stop-orders or distringases works at the Bank of England in restraining the transfer of the public funds.

We have also the pleasure of acknowledging that we have been assisted in our inquiries by different observations and suggestions which have been communicated to us upon the subject of registration, two of which papers we have printed in the Appendix (*a*), and by several publications upon the subject of registration, and the means of improving the title to landed property, which have been laid before us by the authors of them, and which are mentioned in the note below (*b*).

As to Registration generally—The Existing Systems—and the Failure of previous Attempts at a General Registration.

4. *Expediency of some Registration.*]—We need not dwell on the advantages to be derived from registration of the ownership of land; they are, and have been for a long time, very generally admitted.

In the earlier periods of our history, publicity was considered essential in almost all dealings with landed property. The transfer of the immediate freehold in possession was made notorious by livery of seisin; the transfer of the remainder or reversion was made equally notorious by the attornment of the tenant of the estate in possession, by which he recognised the new proprietor; the surrender of copyholds, followed by the admission of the copyholder, was an open avowal in the presence of the lord, and before the whole homage, that an old tenant had died or disposed of his interest, and that a new tenant had come into the manor, and taken his place; fines with proclamations were public acknowledgments in the King's Courts that an estate which was supposed to belong to one man was in truth the estate or property of another; while easements, such as rights of way and rights of water, were evidenced and kept in existence by the notoriety of continued user and actual enjoyment. The Statutes of Uses and Enrolments were passed with similar objects. By them the Legislature sought to abolish that secret transfer of land which had begun to prevail by means of private confidences, enforced by the jurisdiction of Courts of Equity. Accordingly, the former of these Statutes transferred the use into possession; while the latter rendered void any bargain and sale limiting an estate of freehold which was not enrolled in the Court of Chancery. But the object of these provisions was soon evaded by a subtle construction and contrivance; and instead of giving publicity and notoriety to equitable transfers, the Statute of Uses was so interpreted as to make even legal conveyances, what they never were before, secret. So obvious were the evils resulting from this change, that, from the time of James the First to the present, repeated attempts have been made to remedy them by means of public registration, but made in vain. An historical account of these attempts was furnished by Mr. Sanders to the Registration and Conveyancing Commissioners, and it will be found at length in the 6th Appendix to their Report. (*c*) It appears therefrom that the principle of registration has been constantly recommended by the ablest lawyers and statesmen; that this principle has been repeatedly recognised by both Houses of Parliament separately, though they have failed to agree in the details of a measure which might pass into a law; that the difficulty and uncertainty of finding out such charges and incumbrances as affected the land, was early considered to be highly prejudicial to purchasers and creditors; that as early as the reign of Charles the Second (*d*) this uncertainty of titles to estates was deemed to be "one cause of the decay of rents and value of lands;" and that the same conviction, instead of being diminished, has been so much strengthened by subsequent experience, that upwards of twenty bills have, within the course of the last twenty years, been brought into Parliament for the purpose of establishing systems of registration. It should also be remembered that the Select Committee of the House of Lords appointed to inquire into the Burdens upon Land, having attributed the diminution of the marketable value of real property to the tedious and expensive process attending its transfer, expressed themselves as anxious to impress on the House the necessity of a thorough revision of the whole subject of conveyancing, and the disuse of the present prolix and vexatious system. They also recommended the improvement of the law of real property, the simplification of titles, and of the forms of conveyance, and the establishment of some effective system in the registration of deeds.

5. *Failures of previous measures owing to the objection to a Registration of Assurances.*]—With such a remarkable concurrence of opinion, the failure of measures so often proposed and so generally desired can hardly be attributed to any other cause than the practical difficulties which, upon examination, are seen to be inherent in or likely to result from a system of registration of assurances. The fear that such a system of registration would be found to be productive of evils as great, or nearly as great, as those against which it was intended to provide, was probably the main reason with induced the Select Committee of the House of Commons in 1853 to pause in adopting the bill then before them, and to suggest, instead of passing a measure of that description, the appointment of a commission for the purpose of considering the subject of registration of title, with a view to facilitate the sale and transfer of land. Bearing this in mind, we deemed it our duty in the first instance to address ourselves more particularly to a careful examination of the defects imputed and the objections entertained to a system of registration of assurances, in order that we might judge how far they might be remedied and overcome by a system of registration of title.

6. *Matters to be considered with reference to a system of Registration*].—In order to form a just opinion as to the suitableness or sufficiency of a register of assurances, or of the species of registration which we are appointed to consider as a remedy for the objections it is intended to remove, it may be desirable that we should first advert to the examples already existing in our law of modes of registration; secondly, to the chief causes and grounds of complaint which are alleged against the existing system of transfer of land; and thirdly, to the peculiarities in the law of real property and the practice of conveyancing, which cast, as it is considered, unfair burdens on the owners of land, and injuriously interfere with the profitable use and enjoyment of land.

7. *The different kinds of Registration existing*]. — Various systems and methods of registration are found actually existing in practice, for the protection of the title to landed and other property. The peculiarities and incidents of these different systems we think it necessary to bear in mind in the investigation of the subject before us.

The various kinds of registry, or modes of registration, to which we refer, differ materially in their objects and their extent, and may be distinguished as follows:—

1. A register of incumbrances and securities for debt; as,

(*a*) "A Plan for the Registration of Titles to Land," by Mr. Randell Macdonnell. "Letter and Plan" of Mr. Edward Thomas Wakefield.

(*b*) "Shall we Transfer our Lands by Register?" by Joseph Goodeve, Esq. "Suggestions for a General Index of Title to Real and Personal Property," by W. R. A. Boyle, Esq. "The Annihilation of past Titles considered as the only effectual Amelioration of present Titles, with a Scheme for its Accomplishment," by T. P. Keene, Esq. There has also been published since this Report was in print, a pamphlet intitled "The Transfer of Land by means of a Judicial Assurance: its Practicability and Advantages considered, in a Letter to Sir Richard Bethell, M.P.," by Isaac Butt, Esq., Q.C.

(*c*) See the Report of the Registration and Conveyancing Commissioners, p. 232.

(*d*) 1669, Lords' Journal, vol. xii. p. 273.

The registers of judgments (*e*), Grants of Annuities (*f*), Warrants of Attorney (*g*), Crown Debts and Recognizances (*h*), and Cases of Lis pendens (*i*).

2. A Register or inrolment of particular classes of deeds, or deeds having particular objects; as,
   The Inrolment of Deeds of Bargain and Sale (*k*), Disentailing Assurances, or deeds executed for barring estates tail (*l*), and Bills of Sale of Personal Chattels capapable of delivery (*m*).
3. A Register of Memorials, of brief abstracts of deeds and instruments; as,
   The Registers of Memorials of deeds and wills affecting lands in Ireland (*n*), and in the counties of Middlesex (*o*), and York (*p*).
4. An Inrolment of the Deeds themselves, or full copies of them, and extending to all deeds; as,
   The Inrolment of Deeds affecting lands in the Bedford Level (*q*).
5. A Register of the Title or actual Ownership, independently and irrespectively of the past transactions or deeds by which it has been acquired.
   Such is the Register in the books of the Bank of England of the public stocks and funds.

8. *Possible Extension of some of the existing systems.*]—Besides the foregoing, other schemes or systems of registration, somewhat different in principle, have, as matters of theory, been suggested; but we believe that no examples are found in actual operation in our own country of any other modes or kinds of registration than those above detailed, unless the Court Rolls of Manors form an exception.

If the fourth of the above-mentioned systems were made to extend to the whole country, it would be what is termed a general Register of Assurances, and would supersede the second and third.

If the fifth of these systems were extended to land, or if a register upon similar principles were applied to the ownership of land, it would exclude, or at all events might be made to render superfluous, the second, third, and fourth systems, and (with the addition of suitable provisions) the first also.

9. *Policy of existing systems.*]—It is important to observe that this institution of registry has always, in each of its several forms, been directed to the attainment of one specific object of public policy, and founded upon a regard to one broad and distinctly defined interest of the community—namely, the security of title and of transactions by means of notoriety and the perpetuation of evidence (*r*).

(*e*) Established in 1692 by the 4 & 5 William and Mary, c. 20., and since varied and extended by the 1 & 2 Vict. c. 110, and 2 & 3 Vict. c. 11, and 18 & 19 Vict. c. 15.

(*f*) Established in 1777 by the 17 Geo. 3. c. 26., and varied and improved by the 53 Geo. 3, c. 141, subsequently repealed by the Act abolishing the laws relating to Usury, 17 & 18 Vict. c. 90, but restored in an amended form by the 18 & 19 Vict. c. 15, s. 12.

(*g*) Established in 1822 by the 3 Geo. 4, c. 39, extended by 6 & 7 Vict. c. 66.

(*h*) Established in 1839 by the 2 & 3 Vict. c. 11, ss. 8, 9.

(*i*) Established in 1839 by the 2 & 3 Vict. c. 11, s. 7.

(*k*) Established in 1535 by the Statute 27 Hen. 8, c. 16.

(*l*) Established in 1833 by the 3 & 4 Will. 4, c. 74, s. 41.

(*m*) Established in 1854 by the 17 & 18 Vict. c. 36.

(*n*) Established in 1707 by the Irish Statute 6 Anne, c. 2.

(*o*) Established as to the several Ridings in the years 1703, 1707, and 1735, by the Statutes 2 & 3 Anne, c. 4; 6 Anne, c. 35; and 8 Geo. 2, c. 6.

(*p*) Established in the year 1708 by the Statute 7 Anne, c. 20.

(*q*) Established in 1663 by the Act for draining the Bedford Level, 15 Car. 2, c. 17, s. 8.

(*r*) The Act of 4 & 5 William & Mary, requiring judgments to be docketed, contains the following recital:—"Whereas great mischiefs and damages happen and come as well to persons in their lifetimes, but more often to their heirs, executors, and administrators, and also to purchasers and mortgagees, by judgments entered upon record in their Majesty's Courts at Westminster against the persons defendants, by reason of the difficulty there is in finding out such judgments."

The Act establishing a Register of Grants of Annuities contains the preamble:—"Whereas the pernicious practice of raising money by the sale of life annuities hath of late years greatly increased, and is much promoted by the secrecy with which such transactions are conducted." And the Act of 18 & 19 Vict., which regulates the present register of life annuities, is expressly grounded on the fact, that "purchasers are no longer enabled to ascertain by search what life annuities or rent charges may have been granted by their vendors or others."

The Register of Warrants of Attorney is required, because "injustice is frequently done to creditors by secret warrants of attorney to confess judgments for securing the payment of money, whereby persons in a state of insolvency are enabled to keep up the appearance of being in good circumstances, and the persons holding such warrants of attorney have the power of taking the property of such insolvents in execution at any time, to the exclusion of the rest of their creditors." And the Act of 6 & 7 Vict., passed to enlarge the provisions of the previous Act, proceeds upon the ground that "greater facilities should be given to persons in searching the books" in which the particulars of the warrants of attorney are entered, "and obtaining the information contained therein."

10. *Extension of that policy.*]—This policy accordingly long since suggested the project of establishing a general register of all deeds affecting the title to the landed property of the kingdom, or, as it has been of late years termed, a Register of Assurances.

It was moreover considered that such a measure would furnish a remedy for many admitted evils in our real property system, or was the necessary precursor or accompaniment of any attempt to remedy those evils.

11. *Present state of the law as to landed titles.*]—By the law of England the possession of land does not conclusively prove the possessor to be entitled to it or to have the right of disposing of it.

The ownership of land is not a simple right, or quantity, or a right which exists only in a simple or single form—like that of a chair or a sum of stock—but is susceptible of modification, by deeds, into a number of independent quantities and degrees of ownership.

These lesser ownerships in the land, if called into existence, must all reunite or coalesce in order to confer the complete title to the land; or, in other words, the subsequent derivation of title must be traced through and must include them.

A possession or transfer inconsistent with them does not put an end to them; they remain integral parts of the title so long as the terms of their own creation admit of their taking effect, and the Statute of Limitations has not barred them.

There is no record in law of the derivation of the title except the title-deeds, and there is no security in law that such title-deeds may not be suppressed or improperly withheld.

A retrospective investigation of the title (or, in other words, the former dealings with the land) must therefore take place on the occasion of a sale, in order to ascertain that the possessor is also the owner, and that no qualifying rights exist.

Though by such means the title be ascertained to be valid, the law provides no permanent or binding record of that fact, or of the fact of ownership, to serve as a rest in the title, or form the foundation of its future deduction.

It becomes necessary, therefore, on the occasion of subsequent dealings with new purchasers, that such purchasers should, in their own interest and for their own protection, repeat the investigation which took place before, and examine the title retrospectively from the date of their own contract, without relying on the previous transfer, or the possession enjoyed under it, and treating these as possibly illusory merely.

Lastly, according (*s*) to the law of England, the right to the possession, and to recover the rents and profits of real property in a court of law, may be vested in one person, while another is the beneficial owner. The person who is entitled at law is technically said to have the legal estate, and the beneficial owner is technically said to have the equitable estate. All actions and proceedings in courts of law must be brought and defended in the name of the person who has the legal estate:

The Register of Crown debts and cases of *Lis pendens* is founded on the principle "that further protection should be afforded to purchasers" against those incumbrances.

The policy of the Statute of Inrolments, 27 Hen. 8, c. 16, we are told by Chief Baron Gilbert, was to remedy the effect of the Statute of Uses, which, "by executing all uses raised, introduced a secret way of conveyance contrary to the policy of the common law." Accordingly, the Statute provides that the deeds, when inrolled, shall remain in the custody of the custos rotulorum, amongst the other records of the counties, to the intent that every party that "hath to do therewith may resort and see the effects and tenor of every such writing so inrolled."

The inrolment of disentailing deeds, it cannot be doubted, was required in order to answer the purposes of notoriety and perpetuation of evidence, which, in theory, at least, were promoted or secured in the former practice of levying fines and suffering recoveries.

The registration of bills of sale is required upon the ground that "frauds are frequently committed upon creditors by secret bills of sale of personal chattels, whereby persons are enabled to keep up the appearance of being in good circumstances and possessed of property, and the grantees or holders of such bills of sale have the power of taking possession of the property of such persons, to the exclusion of the rest of their creditors."

The Irish Registry Act is grounded on the principle of "securing purchasers, preventing forgeries, and fraudulent gifts and conveyances of lands," &c.

The West Riding Registry Act states, that "most of the traders in the West Riding are freeholders, and have frequent occasions to borrow money upon their estates for managing their trade, but for want of a register find it difficult to give security to the satisfaction of the money lenders, although the security they offer be really good, by means whereof the said trade is very much obstructed, and many families ruined." The North and East Riding and the Middlesex Registry Acts contain preambles, one of which states, that "By the different and secret ways of conveying lands, such as are ill disposed have it in their power to commit frauds, and frequently do so, by means whereof several persons have been undone in their purchases and mortgages by prior and secret conveyances and fraudulent incumbrances, and not only themselves but their whole families thereby utterly ruined."

(*s*) 2 Re. Pr. Com. Rep. p. 7

the person who has the equitable estate can only enforce his rights through the medium of a Court of Equity.

12. *Evils of the present state of the law.*]—Such being the general outline of the nature of landed titles in this country, persons intending to become buyers of land find the practical working and consequences of the system to be something like the following:—

1. There being no registry of deeds or of ownership, fraudulent titles may be made by the suppression or destruction of title-deeds.

2. There is consequently a general insecurity of title and apprehension of risk, even when, to all external appearances, there is an absence of any ground for suspicion.

3. The evidence of title, for want of a register, is, at best, inferential and negative. The title can never be affirmatively and positively shown to be good. The possibility of its being impeachable cannot be excluded. Notwithstanding the dangers, however, thus to be encountered, a person who has entered into a contract of purchase in the usual way, without any information as to the title, is compellable to fulfil his contract, unless he can prove facts showing the title to be bad or judicially doubtful; the possible existence of documents unproduced not being a ground of defence (*t*).

4. Should the subject-matter of the purchase be only an equitable estate, the purchaser may be defeated by a subsequent purchaser (without notice) of the same estate, if he happens first to succeed in procuring a transfer of the legal estate.

5. Even an innocent purchaser who may possess the legal estate may be put to proof that, at the time of his purchase, he had not notice of some dealing or transaction for which priority is claimed; and such notice may be imputed to him constructively from an infinite variety of circumstances.

6. A second mortgagee may, notwithstanding notice given by him to the first, find his security destroyed by a transfer from the first mortgagee to the third, unless the latter at the time of his loan had notice of the second mortgage.

7. Thus, equitable and derivative or secondary estates become, in fact, not marketable.

8. Contests and artificial contrivances to obtain priority by getting in the legal estate become inevitable; and these merely in order to incline the legal balance in favour of one innocent victim of a fraud as against another equally innocent. Moreover (*u*), those expenses in the transfer and disposition of real property which arise from the necessity of obtaining conveyances and assignments of outstanding legal estates are very oppressive, and they are submitted to with the more reluctance, because they proceed from a fictitious distinction, which is unintelligible except to professional persons. The expense of applications to the Court of Chancery, to enable trustees under disability to convey, and of the general evidence of representation, and deduction of title to trust estates, with the deeds relating to them, frequently exceed very considerably the expense of the conveyance, or other principal deed for effecting the real object of the parties.

9. Deeds are liable to be lost, and there is no permanent evidence of the contents of the lost deeds.

10. Constant difficulty is experienced in obtaining the production of deeds when they relate in common to two or more estates, or to the divided parts of an estate which was once entire.

11. By this difficulty of obtaining the production of deeds, or insuring their production to buyers, and by the loss of deeds, titles are rendered unmarketable.

12. Disputes arise as to the proper custody of the title-deeds.

13. The possession of the title-deeds by law belongs to the person first interested in the freehold, and this possession, without a registry of the deeds, enables, in many cases, the party having their custody to destroy, to suppress, or even to fabricate particular instruments, in fraud of other persons entitled to posterior interests, and in fraud of buyers and lenders.

14. There being no registry of the ownership, and there being no conclusive record of the past dealings with the property, a history of those dealings must be made, in the form of an abstract of title, on the occasion of every succeeding sale or mortgage.

15. That history must on every such occasion be investigated and put to the proof.

16. Thus the former dealings with the land, however transitory their object, produce a permanent and an injurious effect upon the title, whether they result in conferring a good title or not. The transactions which enter into the history of the title, though spent and determined according to their own proper intention and effect, yet fasten themselves upon the ownership, and continue vital and operative to the extent of obliging every person dealing with the land to see and take care that they are in fact spent, and have done their work.

17. Historical recitals of the previous title become necessary in the deeds executed on the transfer of landed property. These greatly lengthen the deeds, and are the occasion of constantly increasing expense in the future deduction of the title and dealings with the property.

18. Special and restrictive conditions of sale become necessary in order to preclude objections by the buyer, which this retrospective investigation of the title may enable or entitle him to make; and a practice ensues of framing conditions of sale, which, in order not to deprecate the interests of the seller, or injure his sale, are so disguised as often to entrap the unlearned or unwary buyer.

19. The danger of contracting to buy land without a previous knowledge of the title is thus perceived by prudent and cautious buyers, and persons become unwilling to bind themselves as they ought by contract, or until after they have seen the abstract of title.

20. Where a contract is in fact duly entered into, the investigation of the title often causes, not expense only, but delay, annoyance, and disappointment, sickening to both buyer and seller. The seller does not receive his money, nor the buyer his land, until the advantage or the pleasure of the bargain is lost or has passed away.

21. The existence (*x*) of technical defects in titles substantially good, places an undue amount of power (as has been well said) in the hands of an unscrupulous purchaser. The proceedings towards the completion of a sale, after the contract is made, necessarily occupy a considerable time; during which the purchaser has an opportunity of ascertaining, from the state and changes of the markets, whether his purchase is likely to prove a good speculation or the reverse; and his acceptance or refusal of the title is often unduly influenced by considerations arising from these circumstances.

22. Thus, finally, from these various causes, the sale and transfer of land are impeded, and dealings in it are discouraged (*y*).

13. *Objects which it is desirable to effect.*]—From what has been said, we think it may be concluded, that the great objects which the reform of this branch of the law ought to have in view range under the following heads—viz.

1. Security of title.
2. Simplification of the title.
3. A record of the actual ownership.
4. Simplification of the forms of conveyance and general facility of transfer.

We do not conceive, indeed, that it is necessarily an objection to any proposition for a system of registration, that it is not adapted to accomplish all these objects. It may be sufficient for us to say, that if different systems of registration be proposed for consideration, that system which is found to secure these objects in the fullest extent will best serve the interests of landowners and the public generally, and furnish the surest remedy for the evils out of which the demand for a registry of assurances arose.

14. *Advantages of a Registration of Assurances.*]—That a register of assurances would give increased security of title we see no reason to doubt. All those evils and objections which call for protection against the suppression of documentary evidence of title, would, we think, be removed or remedied by a general register of deeds and other assurances relating to land.

Registration of assurances has been justly said (*z*) to be a

(*t*) 2 Re. Pr. Com. Rep. pp. 5, 6.
(*u*) 2 Re. Pr. Com. Rep. App., p. 128.

(*x*) Mr. Commissioner Hargreave's evidence.

(*y*) It is well observed by the Real Property Commissioners, in their Second Report, that "the great difficulties which occur in selling estates and obtaining money on real security, the time which usually elapses before the completion of such transactions, and the harassing expenses and disappointments which attend them, are evils universally acknowledged. They are by many persons considered the greatest evils belonging to our law of real property. We believe that it may be confidently asserted, that, of the real property of England, a very considerable portion is in one of these two predicaments—either the want of security against the existence of latent deeds renders actually unsafe a title which is yet marketable, or the want of means of procuring the formal requisites of title renders unmarketable a title which is substantially safe." The Commissioners also allude to "the depreciation of real property occasioned by the general feeling of the present insecurity of title, and by the apprehension of the delay and expense attending transactions relating to real property;" and observe that "it is obvious that by removing them a register would have a tendency to increase the value of estates, and diminish the rate of interest upon mortgages."

(*z*) Mr. R. Walters' evidence, 2 Re. Pr. Com. Rep., App., p. 131.

system which would protect every man against the ordinary accidents to which deeds and instruments are subject, and would afford a perfect substitute for covenants for production, where (as in the great majority of purchases is the case) a purchaser cannot obtain the deeds; and thus owners of estates would no longer, as to these matters, be in the situation in which they frequently are placed, of utter inability to offer their estates for sale, except clogged with conditions which must necessarily prejudice the sale. One of the most common objections occurring in titles arises from the discovery, pending the investigation, that other deeds besides those which are in the vendor's possession or power relate to the title. If the purchaser cannot obtain access to these deeds, and a binding covenant for the production of them (however unimportant they may be), he will not be compelled to complete the purchase.

Registration of assurances, it has also been justly contended, would afford an effectual protection against deeds or instruments of which a purchaser or mortgagee may not have notice, and against which, unless he obtains the legal estate—the *tabula in naufragio*—(of the possession of which, by the way, he can have no confident assurance), he cannot protect himself. It would also disable parties from suppressing family and other deeds of which no general notoriety exists, and which are in the custody of persons having only a limited interest in the estates.

In a few words, the result is, that a system of registration of assurances would afford protection and security to those who are equitably entitled to it, and would check fraud and dishonesty. The effect of registration of assurances would, we may admit, as respects these circumstances, be beneficial as well to the proprietors of real property as to the community.

15. If, therefore, there were no other objects to be accomplished than security of title and protection against fraud, or if there were no system which would reach the other objects in view, a register of assurances would be a valuable measure; though, even so viewed, it might happen that incidental inconveniences would arise to counterbalance such benefits. We shall, in fact, have occasion presently to consider whether many and considerable objections would not attend a system of registration of assurances, even assuming it to insure all the requisite security of title.

16. *What Registration of Assurances will not effect.*]—It is first, however, material to observe that a Register of Assurances would not of itself, as we conceive, operate to simplify title, or facilitate (as respects the title) the transfer of land, or render less intricate the practice of conveyancing, or lessen any of the burdens on land which arise from those peculiarities in the ownership of land to which we have above adverted.

The registration of assurances would not, as we think, render unnecessary the retrospective investigation of the title on the occasion of each succeeding sale or mortgage. The effect of past dealings upon the title to the land would remain the same as at present. No evidence of the ownership would be afforded without examining the former transactions, as is now done. Abstracts of title would not be shortened. The forms of conveyance would not be simplified.

The technicalities and anomalies of the law of real property would, we think, be confirmed, rather than lessened or relieved, by registration of assurances, unaccompanied by alterations in the general law. Those embarrassments and impediments in the sale and transfer of land which arise from the state of the law and the mode of showing title to land would remain as before, if indeed the delay, trouble, and expense in tranferring land would nat be increased rather than diminished by the establishment of a Register of Assurances. A brief consideration of the positive objections that have been taken to that scheme is calculated, we think, to show that this would be the case.

17. *First objection to a Registration of Assurances considered.*]—One of the most prominent objections to registration of assurances is the vast bulk and increasing quantity of deeds and instruments which would have to be kept, and, on transfers, to be searched and examined (*a*). It is calculated by solicitors that these instruments would accumulate at the rate of 300,000 annually, requiring a registry of 1,000 a day for every working day. The inconvenience of this, as well as the cost, would be so great, and it struck so forcibly the Commissioners who reported in 1850, that they endeavoured to get rid of the objection by allowing protection in a variety of instances to unregistered assurances. After observing that in one aspect it would seem necessary to the perfection of a register that the registration should be as essential as any other solemnity required to the execution of a deed, the Commissioners in their Report remark, "But (*b*) we believe that the establishment of such a rule would lead to consequences seriously affecting the practical utility of registration. One great difficulty in the way of the establishment of a register has always been the bulk of written instruments which are forced upon the attention of purchasers. If registration were made imperative, this evil would become very formidable. After careful consideration we see no sufficient reason for denying to an unregistered assurance an effect which is not incompatible with the protection to be afforded by the register to those who seek such protection. An unregistered deed may be safely allowed to have its full effect against all persons except purchasers claiming the protection of the register." A stronger proof of the magnitude of the evil arising from an indefinite accumulation of deeds can hardly be adduced, for the remedy proposed amounts to this, that in establishing a registry of deeds one of the principal advantages intended to be derived from it, namely, the certainty of always being able to ascertain the instruments which by possibility can affect the land, may be withheld, except as against persons who have chosen to claim the protection of registration.

18. *Second objection considered.*—In the second place, the registration of assurances would involve a specific addition to the existing burdens on the transfer of land, without diminishing, as we think, except remotely and casually, any of the existing causes of expense, tardiness, and difficulty in such transfer. The cost of the necessary searches, and the delay and impediments they will occasion in completing sales are not to be overlooked, if no substantial compensation be afforded by diminishing or removing other causes of expense and embarrassment. The complexities of title and the technicalities of transfer, which are at present the chief causes of cost and difficulty, and protracted inquiries in performing contracts of sale, will not be taken away by any system of registering deeds. To this we must add the important consideration that the additional expense and complication caused by requiring registration would be universal, and would extend to all landed property, and to all sales and purchases of it, large or small. The benefit, however, which the register would confer by excluding the risk of fraud would be exceptional and peculiar. All transactions would, in fact, be made to pay for the machinery contrived to defeat fraud in a few. Were the register calculated to simplify title generally, or the forms of transfer generally, or were it adapted to relieve sellers and buyers from the necessity of retrospectively investigating past titles, the benefit to landed property, and to commerce in it, would be universal, or substantially so; and in such a state of things there would be no harshness in throwing upon all transactions the cost and burden of coming and being admitted to the register. Unless, however, the investigation of the title retrospectively can be dispensed with, the main sources of expense will remain untouched. The expense of this investigation amounts certainly to one-third and often to two-thirds of the whole cost incurred by a purchaser (*c*). We cannot, therefore, but concur in the opinion expressed by Mr. Hayes, that by "establishing a general register there is an absolute certainty of an immediate addition to the expense of every transaction relating to land, and the risk of involving titles at an early period in almost irretrievable embarrassment, while all the advantages which it tenders are more or less speculative and remote." In small transactions, which are far the most numerous, any increase of expense would be very oppressive (*d*). An account of a purchaser's legal expenses incurred at various times and in different parts of the country has been furnished by one of the witnesses (*e*). It gives an average of two and a half per cent. on the purchase-money, or five times the *ad valorem* stamp duty. But as an average affords no notion of the heavy burden in individual cases, it is necessary to look at the smaller properties; it will there be found that the expenses of the purchase mount up to ten, twenty, and even twenty-three per cent. Make even a slight addition to these expenses, and then a register, which is intended for the benefit of sellers and purchasers, would be the occasion of actual loss to the great mass of the persons interested. The Select Committee of the House of Commons in 1832 were so strongly impressed with this result, that when they considered that a general register of deeds and instruments would be of decided advantage to large purchases, they only

(*a*) Lord St. Leonard's Pamphlet, "Shall we Register our Deeds?" p. 4.

(*b*) Page 28.

(*c*) See the answers of Messrs. Hurst, Lewis, Statham, Shaen, Sweet, Christie, Farrer, Dugmore, &c.

(*d*) See answers to Question 2. See also Mr. Bullar's Evidence on Registration of Assurances Bill in answer to Question 685, &c.

(*e*) See Mr. Sweet's answers to written questions.

recommended it as regards small purchases, upon the ground that such a measure "would be made most perfect by being made applicable to all lands without reference to their value." We cannot think it right to do an injustice to a large body of people merely for the sake of obtaining uniformity, which is miscalled perfection. Such perfection would operate unfairly on small proprietors, and, as Lord St. Leonards has well observed, "probably it would induce them not to resort to the register at all, and then they would be exposed to evils to which they are not now liable; for if the rate of insurance be too high, the mariner prefers encountering the perils of the sea."

19. *Third objection considered.*] — Increased complication is a third objection to a general system of registering assurances. If any of the instruments affecting the title are withheld from the register, then the system becomes imperfect. If memorials only are registered, the original instruments of which the memorials are given must be searched for, and copied, or abstracted; and if the instruments are once registered, they must remain on the register. However occasional or however temporary their object, they cannot be destroyed; whether satisfied or not they must still be kept, and being kept they must all be examined by purchasers. Thus, the machinery would be too complicated to answer its purpose, and complication would diminish the facilities of transfer, and increase the chances of miscarriage. Simplicity and accuracy are the grand objects to be attained. The absence of these must lead to uncertainty, and uncertainty is insecurity, and insecurity is impediment. But how are simplicity and accuracy to be attained if notice of deeds by the fact of their being registered is to be multiplied and perpetuated? Extinct life estates, and charges or incumbrances which have been satisfied or exhausted, and other interests which have ceased to be of real importance to the title, must more or less form part of the abstract, and the purchaser's solicitor would not be justified in disregarding them

20. *Fourth objection considered.*]—Another objection raised to a general registration of assurances is the fear of unnecessary and uncalled-for disclosures (*f*). No man likes to make his private affairs public; and one man has no right to pry into the affairs of another, except for some object, in which the latter has given him an interest. Now the only legitimate object of making public or giving notoriety to any title-deeds is to prevent frauds in the transfer of property by insuring notice to future contractors of all transactions which are to affect them. For that purpose, however, there can be no need of disclosing the whole internal history of the title for an indefinite period. There can be no reason why every particular, however secret or however confidential, should be made known. Why are the trusts which affect an estate in land to be more divulged than the trusts which affect stock or railway debentures? Why are settlements and family arrangements, which are intended to preserve property in families, to be more liable to exposure in the one case than they are in the other? These and similar questions have often been asked, but they have never received a satisfactory answer. The objection is striking; and the force of it constrained the Real Property Commissioners in 1832 (*g*) to suggest that in many cases, such as that of an appointment of a reversionary interest, or of portions in favour of children, the registration might be safely delayed; and that any provision which it might be desirable to conceal might be made by vesting an interest in trustees in whom confidence could be reposed. They added, moreover, that the peril would be no greater than exists in all settlements of money in the funds, and in many other cases in which trusts are not expressed in the instruments by which the property is vested in the trustees. Such suggestions are by no means unimportant. They show, that, in cases like those pointed out, the Commissioners considered that the difficulty of establishing a registration of assurances would be so great that they were prepared to substitute for it what in fact in the particular case amounted to a registration of title; but if a registration of title would be good for settlements, why would it not be equally good for mortgages and purchases? If requisite for the one, why not for the other? If the analogy from the funds is available for determining the mode of registration in some cases, why not in all? The dread of disclosure can hardly constitute a just distinction between mortgages and settlements; for the danger of disclosures affecting credit would probably be as great as the dangers of disclosures affecting settlements and family arrangements. Nor do we think that there is any inconsistency in attributing weight to this objection, and at the same time regarding as an evil the disuse or loss of that system of public transfer of land which in a previous part of this report we have adverted to as having prevailed in the earlier periods of our history.

21. *Fifth objection considered.*] — Another objection to a registration of assurances would be, the enhanced difficulty of obtaining loans by a deposit of deeds. The transactions of this kind are very numerous. At present a respectable man in possession of title-deeds may and does obtain relief in sudden emergencies confidentially, easily, and at a few hours' notice. But if a registry of assurances were the only means of establishing title, and if this title could no longer be evidenced, even *primâ facie*, by the possession of deeds, transactions by deposit of deeds would be seriously impeded. The knowledge of such deposits, ascertained by publication through a general register, would be repugnant to the feelings of most depositors, and the process of search and consequent delay would stop or limit this species of dealing just at the time when facility and dispatch are the chief things needed. These are results which cannot be contemplated in a great commercial country without apprehension and alarm. And we may confidently conclude, that any system of registration which did not provide for arrangements equal in convenience to the deposit of deeds would fail to meet with general acceptance. To obviate this objection as much as possible, the principal bills of late years introduced for the registration of assurances directed certificates of registration to be granted. Upon the faith of these it was supposed that parties could obtain loans in the same way as they can now obtain them on the deposit of deeds. But we doubt whether the same confidence would be given to such certificates as that which is given to the deeds themselves, unless they were considered, not only as certificates of the fact of registration, but also as certificates of the fact of ownership. In the latter case, however, it is perfectly evident that the register would become a register of title rather than a register of instruments and assurances.

22. *Sixth objection considered*].—Another objection to registration of assurances is, that it would tend to render less secure possessory titles,—those titles, namely, which depend more upon the fact of quiet and long-continued enjoyment than the technical sufficiency and accuracy of the various deeds which may have contributed to form the stages and steps of the title. The evidence of defects and slips in limitations and conveyances would by the register be perpetuated; and that possession which might have continued undisturbed if the possessor had been allowed to keep his deeds in his box, would be made to invite criticism and attack by presenting a public record of some frailty, by which, or notwithstanding which, historically, the possession might have been acquired.

23. *Seventh objection considered.*] — Lastly, we are not satisfied that any mode of classification of deeds or of titles, for the purpose of furnishing the requisite indexes to a register of deeds, and affording the necessary facilities for search, has been or can be devised so as to be sufficiently free from complication. Without the means of ready, accurate, and complete searches, a system of registering deeds would only be a snare to purchasers. It cannot be doubted, we think, that everything has been done which learning and ingenuity could devise, towards providing efficient and complete indexes, in the Reports of the Real Property Commission and the Commission on Registration and Conveyancing. But we concur in thinking (*h*) that the system of classification adopted by those Commissions mixes up the technicalities of the law of real property with the process of registration in a greater degree than would be compatible with the objects now generally sought to be attained by registration.

24. *Yorkshire and Middlesex Registers.*]—We have not overlooked the fact that the local registers of Yorkshire and Middlesex (as remarked by the Real Property Commissioners (*i*)) "are generally considered to be, on the whole, productive of good, and that no attempt has been made to abolish them."

As, however, these local registers have furnished a lengthened experience on the subject of the registration of deeds, we think it not unimportant to remark that they do not afford any answer to the observations we have found it necessary to make as to the insufficiency of a registry of assurances for removing the existing impediments to the free transfer of land, or as to the positive objections which may be opposed to the institution of such a registry.

Objections to them considered.]—1. In the first place, these

(*f*) See Lord St. Leonards Pamphlet, pp. 12, 13.
(*g*) See Second Report on Law of Real Property, p. 23.

(*h*) See Humphrey on Registration of Assurances Bill.
(*i*) 2 Rep. p. 19.

registers are signally defective, in not presenting at one view all the documentary evidence which a party investigating a title may have occasion to see. There is no guide to searches which on a sale ought to be made in the register, except a previous investigation of the documents which may happen to be included in the vendor's abstract of title. When the names of former grantors or owners of the land have been ascertained from the documents to which the purchaser obtains access, then (but not till then) he can search the register in the names of those former owners for any assurances which may have been executed by them. These searches must be repeated in new names, as new light is from time to time thrown upon the title; whereas a register of deeds, in our opinion, ought itself to furnish consecutive information of the dealings with the land which have taken place, when once a reference to the proper head in the index has been obtained. The defects of the existing registers in this respect are pointed out by the Real Property Commissioners (*k*), and we concur in their opinion.

2. These Registers do not, as we have already observed, contain an inrolment of the deeds, but memorials of them only; and these memorials are not required to show more than the names of the parties, and the property affected.

3. In the next place, these registers do not confer a title according to priority of registration, so as to make it indifferent whether the registered deed confers a legal or an equitable estate, or so as to protect the sale of an equitable estate from the infirmities and risks we have already noticed as rendering it practically an unmarketable interest. A subsequent equitable right may obtain precedence over a prior registered right, by tacking to it a legal right prior to the former on the register (*l*).

4. The objectionable tendency of the rule lastly stated is enlarged by a general doctrine long since settled, that registration is not notice, either actual or constructive, of the deed registered.

5. On the other hand, the efficiency and value of the register are impaired by a general doctrine, that express notice of an unregistered deed is equivalent to the registration of it. A purchase-deed brought to the register, with notice of a prior deed kept off the register, is postponed to the prior deed, although the person claiming under such prior deed has (purposely it may be) disregarded the provisions of the Register Act in not bringing his deed to the register. Thus, from the combined effect of the rules which postpone registered deeds to what may not be on the register, and do not secure priority in all cases to registered deeds over what may come after them on the register, the system of registry in Yorkshire and Middlesex fail in fulfilling many of the most important offices of a registration of deeds.

In all the particulars which we have here pointed out, the defects and errors of the local registers were proposed to be remedied or removed in the scheme for the registration of assurances which was last submitted to Parliament. It is plain, then, that the existing registries of Middlesex and Yorkshire do not furnish any evidence in answer to the observations we have already made on the deficiencies and the objectionable operation of registration of assurances in general. In those observations we have assumed the system to be free from the objections in the local registers which we have here noticed; and we may add that most though not all of the above remarks upon the local registries of Middlesex and Yorkshire are applicable to the general register of deeds in Ireland.

As to Registration of Title.—Various Plans proposed.—Objections thereto.

25. *Registration of title suggested instead of Registration of Assurances.*]—Having regard to the many and great objections to a registration of assurances which we have considered, we cannot be surprised at the growing conviction that a measure of that description will not be adequate to answer the purposes for which registration is required. The unmanageable accumulation of deeds and instruments in one place; the certainty of an immediate addition to the expense and delay of every transaction relating to land; the risk of involving titles at no distant period in increased complication and embarrassment; the apprehension of disclosures, especially in cases of private settlements and family arrangements; and the diminished opportunities of obtaining loans on the security of the land for occasional purposes; the risk of disturbing possessory titles; and the complication of indexes, have naturally induced the distrust of a scheme, the supposed advantages of which, as an additional safeguard and security to titles, are more or less speculative or remote. Even those advantages are much exaggerated, while the positive objections are certain and immediate. The main desiderata to which attention is most anxiously directed are not so much security of title (for that, in fact, is to a great extent practically obtained), but the simplification of title, facility of transfer, simplicity of form, and the consequent diminution of delay and expense. To obtain these desiderata a registration of title is the remedy proposed; and several plans for accomplishing that object have been submitted to us. We propose to consider them in due order.

26. *First Plan.*]—The first of these plans (*m*) proposes the establishment of a Land Tribunal, to which owners of land (including tenants for life, and in tail as well as in fee) may apply to have the land placed upon a public register, and declared to be registered land. The Tribunal is to inquire into the nature of the applicant's title to the land and its existing circumstances, so as to decide upon the expediency of simply admitting it upon the register. When the land has thus become registered, no subsequent act is to create any new estate less than a fee simple, except registered leases or easements; nor any new incumbrance, except registered debentures to a limited amount.

The plan also proposes that the owner of such registered land may further apply for a full investigation of title, and for an order declaring, in a conclusive form, all existing estates and incumbrances; and that after the making of such order the Tribunal may give to each person so found to be interested a Certificate of his Title. It is also suggested, that, in order to obviate all chance of any injustice to third parties, the State may guarantee the title, upon payment of such small fees or premiums of insurance as will provide an indemnity fund to compensate persons whose prior rights might be superseded; but this guarantee is not an essential portion of the plan.

The privileges considered to be incident to this plan are,—

1.—A Parliamentary or indefeasible title, when conclusively declared by the Tribunal;

2.—A power to transfer by simple entry the registered land:

3.—A further power to obtain on its credit terminable land debentures, transferable either by simple entry like Government Stock, or by simple delivery like bank notes or bills of exchange.

With a view to impart to these debentures an immediate marketable currency, and consequent increase in value, their amount is to be limited,—say, for example, to ten times the annual value of the land; and they are to be for uniform sums, without priority *inter se*, and bearing a similar rate of interest. The leading object of these debentures is to avoid the existing complexity of incumbrances, and gradually to supersede all other kinds of charge, such as mortgages, legacies, family portions, quit rents, tithe rent-charges, annuities, judgments, recognizances, crown bonds, decrees, orders, and rules of court.

As to family settlements and trusts, it is suggested that they might still be sufficiently effectuated (like settlements of Government stock or of railway shares) through personal confidences, and the equitable jurisdiction of the Land Tribunal; also that equitable mortgages or loans from bankers might be effected easily and without expense. The plan further recommends that the new system should be introduced gradually and

(*k*) "We may here mention as an important inconvenience belonging to the existing registers, and from which a system founded on classification would be exempt, that where registered deeds are indexed by names several searches of the register at successive times are often necessary. The deeds produced to a purchaser indicate the searches required so far only as the title is shown by those deeds. It is obvious, that every document relating to the title must have been under consideration before the extent of the searches required can be ascertained, and that frequently searches will become necessary with reference to interests which are brought into view by the result of a former search. The consequence is, that in almost every case something is left undone; the purchaser, to escape from inquiries so indeterminate, foregoing the protection which the register would have afforded him. But if the deeds relating to a particular title are brought together in the index, a reference to the class enables the purchaser to ascertain at once whether all the documentary evidence has been produced to him, and to call for any instruments which may appear by the register to be wanting." And again,—

"The purpose of a repertory of documents of title is not answered, in a perfect manner, by any of the existing registers in this country. Whenever the ownership of lands is shown by a deed to which the purchaser has access, a search may be made for conveyances or charges by the grantor and grantee in that deed. Whether in any particular case the search can be continued downwards, so as to get at the whole of the subsequent evidences of title, must depend upon what may be disclosed by the memorials of the respective deeds to which a reference has been obtained by the previous search; and although there would always be the means of ascertaining the subsequently registered title, if registration at length or a deposit of the deed were substituted for the memorial required by the existing registers, it is obvious that a register, framed upon the principle of indexes by the names of parties, could never be relied on for the discovery of the title anterior to the earliest deed to which the purchaser may have access."

(*l*) 2 Re. Pr. Com. Rep. p. 35.

(*m*) See Mr. Scully's plan with the Bill annexed in Appendix A.

in a voluntary form; though, after some years experience of its beneficial working, it might be considered expedient to render its application universal as to all land not specially exempted from its operation.

The professed principle of the whole plan is to facilitate the sale and transfer of land, through the most simple machinery for the registration of an absolute title, both to the land itself and to the charges upon land; with a subsequent capacity in the owner of any registered land or charge to transfer the former by entry, the latter by delivery.

27. *Objections to first plan—Land Tribunal.*]—Such being the general outline of this plan, we have to observe, that it has unquestionably the merit of great simplicity, and it contains valuable suggestions, of which we propose to avail ourselves. Its contemplated advantages are in a great degree based upon those already derived from the Incumbered Estates Court in Ireland, and indeed it was framed for that part of the United Kingdom, though it is said to be capable of easy adaptation to any English measure of land reform. Ireland possesses superior machinery for carrying into immediate operation a complete system of registration of title through its registry of deeds, its ordnance survey, and its general valuation of lands.

The conclusion to which we have come is adverse to the institution of a land tribunal *(n)*, with judicial powers to decide conclusively upon all titles to land. Such a court may advantageously be established where estates generally are so heavily incumbered that their owners can neither emancipate themselves from existing burdens, nor discharge the duties which attach to the ownership of land. The object in that case is to obtain altogether a new proprietary, and to provide for payment of debts; but the same principle is hardly applicable in a state of society where there is no paramount need of encouraging absolute changes of ownership, as contradistinguished from temporary charges or family settlements, and where a considerable portion of the property will, not improbably, whatever may be the state of the law, still remain in the same families.

28. *Objections continued.*] — Another objection to this plan is, the want of provisions for protecting beneficial and equitable interests. Without such provisions those who are entitled to beneficial interests in the registered land would not feel satisfied of having adequate protection against the wrongful acts of the registered owners.

29. *Land debentures.*] — With regard to the proposed system of debentures, we conceive that it is not within the range of the inquiry submitted to us, and therefore we do not recommend it. We may observe that we are not prepared to concur in recommending that the owner of registered land shall be deprived of his legal power to incumber his own land, with the same kinds of charge as he can create at present. Furthermore we may observe that if it would not be advisable to establish a land tribunal for the purpose of investigating the title to land, the same objection would also apply to the establishment of such a tribunal for the creation and issue of land debentures. Moreover, there is not in England any adequate machinery for ascertaining judicially the value of land through public maps or a general valuation, such as exists in Ireland. The preferable way of enabling persons readily to obtain loans on the security of land, is to alter the expensive forms and incidents of mortgages, so that they may be at law what they are in equity, securities merely; and that thus the dry legal estate may not be left outstanding on payment of the money secured, but that the mortgage may then cease for ever. A statutory enactment giving that effect to mortgages, and conferring all the powers which a mortgagee now usually possesses under distinct provisions against the mortgagor, or the mortgagor's property, coupled with a registration of the charge as well as of the land, might probably be framed so as to give to charges on land the same advantages and the same facilities of transfer as those which attach to railway debentures.

Although we do not recommend the adoption of a judicial system of land debentures, we think it right to observe that there may be facilities for trying it in a proper manner in Ireland, where strong opinions have been expressed in its favour *(o)*.

30. *Warranty of title.*]—The suggestion of a guarantee or warranty of title, supported as it has been from many quarters, is not peculiar to the plan now under consideration, and is in our opinion very valuable. It is well known that when a title has once been investigated and approved of by experienced counsel and solicitors, it is as little likely to be questioned as the right to any chattel which a man buys in open market. Still on a re-sale it is again investigated and again approved by another counsel and another solicitor, because the new purchaser was no party to the former transaction, and he cannot be sure that everything has been done which he may think necessary to make himself safe. But should the second purchaser be a member of the family instead of a stranger, employing and taking the same legal advice, it is probable that he would be satisfied with the previous investigation, instead of requiring a new one to be instituted, which he would deem to be only going over the same ground again. Supposing, therefore, that a public officer, such as a registrar, should have the power, on application made for that purpose by proper parties, to direct that the title, before registration, should be examined and tested under the authority of a counsel and solicitor, he might safely guarantee it, on their recommendation, against all claims which could be brought against it. In such a case it would not be unreasonable that the registered owner who had thus obtained a warranted title should pay a small premium on that account; and the aggregate amount of the premiums paid would constitute a fund to indemnify the state as the public insurer in case any latent claim should be subsequently established.

31. *Second plan.*]—The second plan *(p)* which has been submitted to us is founded on a principle which was brought to the notice of the registration and conveyancing commissioners. It has been described, in a word, as registration of the freehold. This plan proceeds on the hypothesis that possession is the root of title; bearing in mind that by possession the possession of the freehold is meant, and by freehold a presumptive fee simple. Credit, therefore, is given to possession until it is shown to be wrongful. The fact that the property is held by the person who is seen to hold it, is presumed to be coincident with the right of property, until the contrary appears. Acting on this hypothesis, the freeholder as thus defined is always to be entitled to have his property registered. But since there may be other rights besides the freeholder's, these rights are to be dealt with as qualifications of the freeholder's presumptive title; for the possession is not necessarily the whole of the evidence upon which the title rests; it should rather be considered as the basis of the evidence, or, as it were, the starting point of the inquiry. When, therefore, other rights exist, protection is to be given to them, and they are to be capable of registration under the heads of "Charges and Notices." Registration of charges and notices is to consist, in effect, of the registration of written instruments or assurances; but each instrument or assurance is to stand upon the register in the name of a person responsible for its introduction into or retention in the registered title, and empowered to remove it at pleasure; and provision is to be made for its compulsory removal from the title as soon as its operation has ceased. The registration of the freehold is to be provisional in the first instance, that time may be allowed—say six years ordinarily, but a longer period, perhaps twenty years, for those who are under disabilities—to interpose the registration of existing incumbrances or adverse titles. It is further proposed that a map of all the land in the kingdom, divided into parishes or districts, should be made by authority, on which each field or other materially defined portion of the surface of the country should be distinguished by a numerical symbol. This map is to be made the basis of a book of reference containing the same numbers as those on the map, with the description and contents of each division, and the names and addresses of the different freeholders. The register at the outset would be formed on the spot by an assistant registrar or commissioner sent down to the different parishes for the purpose of receiving claims; and the assistant registrar would in substance follow the practice prescribed by the General Inclosure Act, 8 & 9 Vict. c. 118, a limited time being allowed for appeal, with an extension of time in favour of persons under disabilities.

32. This second plan is explained in detail in the Appendix. It contains suggestions of which we shall avail ourselves hereafter; but in the view of the majority of this Commission there are grave objections to it; and unless those objections could be overcome or materially lessened we should not feel ourselves justified in recommending it.

33. *Objections to the second plan considered.*] — One serious objection is the necessity of sending a commission into

(n) Mr. Scully retains his preference for the land tribunal and land debentures proposed by his plan in appendix A. See his paper at the end of the Report.

(o). See Evidence of Commissioners Longfield and Hargreave, Master Brooke, Sir M. Barrington, Lord Dunalley, Colonal Larcom, Mr. Griffith, LL.D., Sir R. Kane, Mr. Pollard Urquhart, M.P., Mr. Sausse, Q.C., Mr. R. Longfield, Q.C., Mr. R. Murphy, and Mr. W. White; also a Petition from Irish Landowners in May, 1850.

(p) See Mr. Wilson's plan in Appendix A.

every district to ascertain who are to be put on the register of the lands in that district—an objection not merely or mainly on the score of expense, but to the principle of such an inquiry. It would, in fact, involve a compulsory registration of title; for a landowner could not venture to remain passive, lest some one else should procure registration to his prejudice. The presumptive completeness attributed to the freehold title would also tend to stir up dormant claims which might otherwise be settled by mere lapse of time. In the next place, the right which under such a system every freeholder would have to register his freehold, as implying, in the absence of or subject to registered qualifications, a power to transfer the fee simple to a *bonâ fide* purchaser for valuable consideration, would confer on a person with a limited interest a power which he does not and ought not to possess. The consequence must be, that claims without number would be sent in to the registrar; for the presumptive right which the freeholder might acquire would otherwise destroy the actual rights which the remaindermen, or those who have interests in the property, are justly entitled to. In the next place, the facility with which claims might be made and allowed would lead to the introduction of a mass of documents —some real, some doubtful, some fictitious—which would have to be searched for, examined, and god rid of, before a purchaser could be advised to accept the registered title; and thus the evils already pointed out (*q*) as necessary incidents to a registration of assurances would here arise, and we do not see how they could well be avoided. Again, since all interests, other than that of the registered owner for the time being, are by this plan remitted to the head of "Charges and Notices," it would often be ambiguous what extent of interest ought to be considered as represented by the registered ownership. In some cases the "claims" may be merely illusory, and in others they may relate to interests certain to take effect (at a future period). The certificate of ownership, however, would be delusive if it were not certain what measure of interest it represented, because the ownership would appear to be the fee, and yet might, in truth be no more than a life interest. On the other hand, the proposed circulation of certificates of registered "claims" might lead to fraud when the claim covered merely an imaginary, a litigated, or a doubtful interest. Once more, the sale of lands by registered owners would, during the period of provisional registration contemplated by this plan be almost prohibited, inasmuch as, until the expiration of that period, modifications and limitations might be put upon the register in the shape of "claims." Assuming, however, that these objections could be more or less overcome, still there would be the difficulty, the expense, and the delay of mapping the whole country, of settling the questions of disputed boundaries, of correcting errors which would constantly creep in, and of revising the map from time to time, so as to make it correspond with the changes, in the various alterations and subdivisions of property, which would constantly take place.

34. *Maps.*]—The importance of maps as forming the best basis for a scheme of registration has been long and often and ably discussed. In 1832 the Real Property Commissioners (*r*) reported against such a use of maps. In 1850 the Registration Commissioners reported (*s*) in favour of it; but two of that body, Mr. Humphry and Mr. Broderip, expressed their dissent. In 1850 a bill for the registration of assurances, founded on the report of the last-mentioned Commissioners, which recommended maps, was brought into the House of Lords' and referred to a Select Committee. The Select Committee, admitting that maps were in theory to be preferred, came at length to the conclusion, that, considering the occasional inaccuracy of the Tithe maps, the insufficient scale of the then existing Ordnance maps, and the great delay and expense of a new survey, it would be inexpedient to propose their compulsory adoption in the first instance, but that means should be reserved of introducing them as opportunity occurred. The bill, in consequence, came down to the House of Commons without that portion of it which was founded on the recommendation of maps by the Commissioners. In the House of Commons the question was slightly re-opened (*t*) in 1851, but no opinion was expressed. Under these circumstances we have felt it our duty to take further evidence on it; and we have arrived at the conclusion that a compulsory plan for mapping the whole country would not be attended with sufficient advantages to outweigh the inconveniences which must necessarily attend it. The first inconvenience would be the unavoidable delay that must occur in remapping the kingdom. There are no public maps now in existence which would be sufficient to answer all the purposes of registration (*u*). The present scale of the Ordnance maps in England would not be large enough for minute subdivisions of common fields, and for a clear delineation of town districts. The tithe maps would determine the question of parochial boundaries, but not the boundaries of individual proprietors. Such maps might certainly be useful to a considerable extent; but for registration purposes there must be new surveys; the revision of existing maps must be made, and it would probably require two years before the map for any one county could be got ready. Again, the expense would be very considerable. Mr. Beamire says (*v*) that the maps and references in the Tithe office have already cost as much as £2,500,000; and Colonel Dawson (*x*) estimates at upwards of a million the cost of compiling a map of the entire kingdom partly from maps scientifically constructed, and partly from the revision of other maps to be adopted for the purpose of registration. And this would be independent of the expense which would have to be incurred in settling the boundaries between different proprietors, if such a measure were considered desirable. It appears to us, however, that to compel the formation of a general map of England with the view of making it evidence of the boundaries of properties would of necessity open a vast field for litigation and dispute. Questions of disputed boundaries which are now allowed to remain in abeyance must then be settled. The trouble and annoyance thereby occasioned would be harassing in the extreme; and these evils would fall more heavily on small owners than on large proprietors. Every person must defend his extreme rights, for when once the register came into operation, they would be barred for ever. To meet so many and such serious inconveniences, the corresponding advantages should be clear and positive, certain and immediate; but we doubt very much whether this would be the case under a compulsory obligation to map the boundaries of every proprietor.

35. *Maps continued.*]—For the reasons before mentioned we cannot recommend that the compulsory formation of a general map should constitute the basis of a system of registration of title. At the same time we are not insensible to the numerous advantages which a pictorial representation of property and its boundaries must always have as compared with a mere verbal description of it (*y*). The verbal description can only state that it contains so many acres, roods, and perches; that it bears such and such names; that it is occupied by this or that tenant; and that it is bounded on the north, south, east, and west by certain specified roads, rivers, buildings, or lands belonging to or in the occupation of certain specified parties. But such a description is not necessarily sufficient to identify the property, or to ascertain correctly its form or shape, or whether the fences or boundary lines are crooked or straight, or to determine what is the general or particular direction of it with regard to the points of the compass. These are matters which a map, constructed upon a basis of triangulation, and according to the principles of science, can best supply as permanent landmarks, accurate at the time when they are originally made, and capable of being restored to their true positions, whatever may be the casual or accidental circumstances by which they may have been disturbed. Although, therefore, for the reasons above given, the compulsory formation of a public map would be open to serious and grave objections, yet the use of a map properly authenticated for each individual estate, and made on a uniform scale, would probably furnish, together with the usual verbal description, the best means of identifying the property, and the clearest mode of indexing correctly the registered title to it. One of the witnesses has observed in his evidence (*z*) that "a map is a good servant, but a bad master; very useful as an auxiliary, but very mischievous if made indispensable." In this opinion we concur; and while we would deprecate the adoption of maps in any mode, or for any purpose, which would make them binding upon or conclusive of the rights of parties, we would encourage and even require their use in each case, so as to obtain a description and admission of the particu-

(*q*) See sections 17 to 23.
(*r*) See 2nd Rep. p. 26.
(*s*) See the Report of the Registration and Conveyancing Commissioners, p. 15.
(*t*) See Mr. Ballar's and Mr. Coulson's evidence, 962–594, 1000–7, 1073–75, before Committee of House of Commons.

(*u*) It should be remarked that this reasoning is applicable chiefly to England. In Ireland the Ordnance map on the scale of six inches to the mile is sufficient for the purposes of registration. See the evidence of Colonel Larcom, Mr. Griffith, Sir M. Barrington, Sir R. Kane, Mr. Brassington, and Mr. R. W. White.
(*v*) See evidence of Mr. Blamire.
(*x*) See Col. Dawson's evidence, pp. 4, 5.
(*y*) See on this subject Col. Dawson's evidence.
(*z*) See Mr. Joshua Williams's evidence.

lar property which the party applying intends to have registered. In furtherance of the same purpose a discretionary power should be given to the registrar for determining how far and under what circumstances any existing public maps might be made available, as well as the scale upon which either the private maps or copies of the public ones should be prepared and employed.

36. *Third plan.*] — The next plan which has been brought before us is that which was previously submitted to the Select Committee of the House of Commons (*a*). This plan is founded on the belief that the transfer of land may for many purposes be assimilated to a transfer of stock. Every person who, in respect of power or interest, has the absolute right of disposing of the fee simple of property in land, would, according to this plan, be entitled to put the estate on the register, and to transfer the ownership thereof to any other person, subject to such rights and interests as were created before and existed at the time when the registration of the property was effected. And inasmuch as this part of the plan would be slow in its operation, and for fifty or sixty years would involve an investigation of title anterior to the registry in every dealing with the land subsequent to the registry, it is proposed that the person seeking registration should be empowered to apply to the registrar to have the title duly investigated by a counsel and solicitor of his own selection; and then, if the title should be found in all respects to be perfectly marketable, the registrar is to be authorised to guarantee or warrant it against all claims that might be brought in respect of it. But since persons having limited interests might be prejudicially affected by the acts of the registered owner, it is likewise proposed to enable such persons to protect themselves by the entry of distringases, to be obtained and to operate in the same way as stop orders are now obtained and operate on the transfer or disposition of stock in the funds. A similar mode of registration is likewise provided, by means of a subordinate register, for leaseholders. This plan does not provide for the registry of anything beyond the simple transfer of the ostensible ownership in fee and leases. Dealings which concern partial estates or equitable interests only will not be assisted or protected by the register, except when (as against an improper disposition by the registered owner) a distringas is put on. In fact, the purpose of this plan is, to attach to each landed estate a formal and ostensible proprietorship, to which the right of sale and transfer may be incident, in cases where the whole fee simple is intended to be disposed of, and to remit those who, in any case, may have right to restrain the sale or transfer, or to complain of it, or are interested in its proceeds, to the protection of the distringas, or to their personal claim against the individual.

37. *Objections to third plan considered.*]—The material objection to this plan is, that transfers by the registered owner are stopped or prevented so long as there are mortgages on the property protected by distringas, and that mortgagees must either be themselves placed on the register as owners in lieu of their mortgagors, or must be content with the protection of a distringas. Another objection is, that a general liberty of entering distringases on the oath of parties, stating that they have an interest in the land, and on an ex parte order of the Court of Chancery, may lead to complications, embarrassments, and litigation, which ought to be avoided. Some further check may perhaps become necessary to prevent this liberty from being abused, and we believe such check may be found and provided.

It is also considered by some of the Commissioners that the advantages to be derived from registration would under this plan be postponed to too remote a period, unless some means could be devised of ascertaining and protecting on the register, within an early period, rights in registered land created anterior to the registry.

The principal change in the law which this plan involves is, that after the commencement of the registry no disposition by a registered owner will be allowed to pass any interest less than the whole fee simple, except leases. The transfer must vest an absolute proprietorship in the transferee, whether the purpose of the transfer be a sale, a mortgage, or a settlement.

38. *Other Plans.*] — Other plans for the registration of title have also been submitted to us, and are given in the Appendix. One (*b*) of these, by one of the Commissioners, is substantially the same as the last, with the exception that it makes no provision for a system of warranty to which he objects. The others (*c*) we have not failed to give attention to, but they do not appear to us to call for special remark in this place.

(*a*) See Mr. Cookson's, Mr. Field's, and Mr. William's evidence, and the Appendices Nos. 1 and 3 to the House of Commons Report of 1853. See also Mr. Cookson's paper in Appendix A. to this Report.

(*b*) See Mr. Headlam's paper in Appendix A.

As to Registration of Title. Observations introductory to the Plan about to be recommended.

39. *Points of Agreement in the Plans.*]—The previous examination of the different schemes before mentioned will tend to show the special difficulties which we have to avoid, and the particular provisions upon which all are agreed. They are agreed in recommending that the entry in the register should be the only manifestation of actual ownership for purposes of transfer. Each of these plans, moreover, suggests a certain "registration of title" to land; and what is thus proposed is not a registration of that which is now known as "the title" to land, but of some form of landed ownership, which, as part of the scheme in question, and for the purposes of it, must be adopted, and established by alterations in the existing law. Each of the schemes proposes, to a greater or less extent, to remove existing complexities of interest in land, and therefore more or less implies change in the nature of title. The difficulty consists (and here the plans essentially differ) in effecting the transition from the existing system of title, and in endeavouring to reconcile the registered ownership with the preservation and protection of unregistered interests. Most of the plans adopt some kind of mapping and some system of warranty; but they vary in the mode in which these objects are sought to be accomplished.

40. *Problem to be solved.*]—Bearing then in mind such agreements and differences, and taking advantage of the different suggestions submitted to us in each of these schemes, we find that the problem which has to be solved is this:—By what means, consistently with the preservation of existing rights, can we now obtain such a system of registration as will enable owners to deal with land in as simple and easy a manner, as far as the title is concerned, and the difference in the nature of the subject-matter may allow, as they now can deal with moveable chattels or stock? No one doubts that it would be a great benefit to the proprietors of land if they were able to convey it with the same facility as the owners of ships, or of stock, or of railway shares, can now assign their property in any of them. But the question is, Can this be accomplished?—and, if so, how?

In answering these questions, it must be assumed that no plan of registration will be acceptable or desirable unless it leaves, substantially and practically, to the owners of land, powers of disposition and rights of enjoyment of similar extent and facility of exercise with those which they possess under the present system.

41. *Difficulties resulting from long existence of the present system.*]—One remark should here be made, which is apt to be lost sight of; it is this,—that if there had been always a register of land, as there is in fact a register of ships, of stock in the funds, and of railway shares, it would be difficult to point out any distinction between property of that description and land, so far as regards the mode and form in which they might respectively be transferred or sold. The distinction between them has arisen, not so much from the different nature of the things themselves, as from the different regulations to which they have been subjected in their origin and in the development of their legal qualities. Both kinds of property are equally the creatures of and require the protection of the law. Both admit of transfer from one person to another. Both may be subject to family settlements. But the right to the one has grown up under the feudal system of law, adapted, no doubt, as far as it could be done by judicial decision, to the varying wants of mankind, but without the aid of a controlling power which alone would be sufficient to simplify its tenure or facilitate its disposition. The right to the other has been created and regulated by Parliament itself, which having to deal with a new subject, determined at once to allow no trusts to affect the transfer of it, and therefore excluded from the register of the right to it all modifications which might otherwise qualify the absolute ownership. Had land always been similarly registered and similarly transferred, no one would now think of imposing upon its present proprietor the harsh and unnecessary burden of furnishing, before he could part with a single acre, a detailed history of every transaction relating to the property for a period of sixty years; nor of forcing him, before he could borrow £100 for purposes of im-

(*c*) See Mr. Wakefield's and Mr. Macdonnell's papers. See also Mr. Dugmore's evidence, and Mr. Boyle's pamphlet intitled "Suggestions for a General Index of Titles."

provement, to prove every birth, marriage, death, settlement, charge, conveyance, or incumbrance that might by possibility affect the title for more than half a century past; and if this be so, how much more beyond reason would it be to compel an owner, after such a process had been gone through on his purchase, again to undergo it, when he might wish to sell that to which the title had been both recently and abundantly proved. Assuming that we are right in this conclusion, and we think that few will doubt it, the difficulty of giving to the owners of land the same benefits as those enjoyed by the owners of ships, stock in the funds, or railway shares, is the difficulty of applying a new principle, which, in a new state of things, has been found to be practicable and advantageous, so far and in such a manner as to render it applicable to an old state of things, which is justly complained of, and which has become prejudicial to the interests of society, in those very particulars in which it disregards that principle. It is the difficulty of unravelling the intricate meshes of form and technicality with which the owners of real property are surrounded and entangled, the difficulty of assimilating the transfer or alienation of that kind of property which has been hitherto subjected to these forms and technicalities to the transfer or alienation of that kind of property which has always been without them; the difficulty, so to speak, of undoing, as regards the future, that which has grown up into a kind of necessity, until it has almost come to be supposed that the security of property in land depends on the fetters with which all freedom of action respecting it is tied up and restrained. We will proceed to show how we think this assimilation may be effected, notwithstanding the complications in which the title to land and the transfer of it are at present involved.

42. *Objects aimed at.*]—The objects in view are, to form a register of title as distinguished from a register of the various deeds and assurances under which the title has been derived;—to form this register in such a manner that the retrospective inquiry into the former dealings and transactions, which on a transfer is now necessary, may be avoided; to make this register instrumental in simplifying generally the title to land and the forms of conveyance; and at the same time to continue, as far as possible conststently with a simple register of title, the existing system of settlements, and to avoid impairing unduly the security of settlements and trusts. These objects, moreover, we consider ought to be accomplished, if possible, in a manner which will avoid the special objections incident to a system of registration of assurances, but at the same time will secure the particular benefits and advantages which, as we have stated, belong to that system.

43. *What a register ought to be and do.*]—In endeavouring to accomplish the objects in question, we have come to the conclusion that the register ought to be composed of a succession of simple transfers merely, and should manifest only the actual and existing ownership of the land for the time being, without laying open the history or past deduction of it. It ought, in fact, to be a record of the ownership existing at the time of any supposed search of the register. If the register were to disclose as part of the existing title the former dealings, it would be found not to afford the requisite relief from the obligation of retrospectively investigating the title.

44. *What ought to be put on the register.*]—We further think, that, consistently with the objects in view, no form of ownership or property, besides the fee or entire ownership, with the exceptions next mentioned, can be allowed to be put upon the register. The registered ownership should, with those exceptions, always be the fee or whole interest in the land forming the subject of the registry. Charges on the fee, however, and leases, being (apart from the fee) subjects of marketable dealing, and interests commonly bought and transferred, should also be admitted to the register, separate places being provided for them.

45. *What ought not to be mixed up with it.*]—Some of us think, indeed, that beneficial interests in land not amounting to the fee, and dealings with such interests, might usefully and advantageously be registered. We conceive, however, that registration, as to such interests and as to dealings with them, would, in all material points, resemble a registry of assurances, and that such a registry should not be mixed up with or form part of a registration of titles. Any such register should (*d*) be entirely distinct, and should not in any way affect purchasers of the fee, but should only bind the parties who created minor interests and incumbrances, the owners of such interests, and their heirs and personal representatives and assigns, and the trustees. This distinct register might be useful in regulating the distribution of the money arising from a sale of the fee, and in determining questions of priority, but it should not in any way complicate or impede the sale of the fee.

We, however, confine ourselves in this report to registration of the fee and charges on it, and leases; only observing that the system of registration here recommended will be found compatible, as we believe, with the subsequent establishment of the subordinate registry we have mentioned, should that appear advisable, when the registration of title has been found upon trial to answer the ends which are intended to be promoted by it.

46. *Certain preliminary questions stated.*]—Before proceeding to state in detail the form and effect of the registration we propose, it may be convenient that we should advert to some questions of primary moment which affect the subject of registration of title generally, and which have received our careful attention, as presenting themselves at almost every stage of our investigation.

These questions are:—

1. Whether registration shall be compulsory or voluntary?

2. Whether the title conferred by the registry shall in the outset be parliamentary or unimpeachable, or shall be subject to be defeated by the claims of persons having rights created before the commencement of registration?

3. Whether, if the registered title be not at the outset unimpeachable, interests created before the commencement of registration shall become in any manner bound or affected by the registration after the lapse of any given period, or otherwise?

4. Whether the registry of the legal ownership will be compatible with the due protection of the equitable or beneficial interests in land?

5. Whether it shall be a metropolitan or a provincial registry, or both metropolitan and provincial?

47. *First question (compulsory registration) considered.*]—In considering whether registration shall be compulsory or not, it is necessary to bear in mind the various senses in which a system of registry may be said to be compulsory.

1. One form of compulsory registration of title would be to require all owners or persons in possession of land to make their claims and apply for registration within a limited period, on pain of losing their rights, or of other claimants being admitted to the register upon their defaults. This species of compulsory registration of title we do not recommend. Such a system would tend to disturb possessory titles, by arousing dormant claims and encouraging litigation, and would contravene the general policy of the law in respect to possession, which we deem to be a very wholesome one.

2. Persons applying for registration may be required to prove their title or submit it to a quasi-adverse investigation, as a condition of their being admitted to the register. We think such a compulsory investigation of title, though only required as a preliminary to registration, would be highly objectionable; and we do not recommend it. It would involve, as has been pointed out in the evidence before us, the necessity of having every title to every acre of land thoroughly investigated by a competent judicial tribunal. It would (*e*) be distasteful to landowners, who would be very reluctant to disclose their titles, and it would occasion the bringing forward of many stale and illgrounded claims,—would give rise to litigation,—and would, when completed, be of no practical benefit to any, except those who contemplated selling their estates. It is also to be borne in mind that many persons in quiet possession of land have bought it under special or restrictive conditions of sale, which have precluded them at the time of their purchase from calling for strict or proper evidence of the title, and have limited them to some short period of the title in their investigation of it. It would, we think, be highly unjust to call upon persons in such a situation for strict and technical proof of their title, such as alone any public authority charged with certifying titles ought to be satisfied with.

3. Registration of every dealing with land may be rendered as essential to perfect such dealing as any other solemnity which is required for the legal alienation of land. This is another description of compulsory registration. We think, however, that it is unnecessary to adopt any such principle of compulsion. Except so far as the object of securing a register of the ownership for the protection of purchasers requires registration, dealings with land not perfected by entry on the register ought to be allowed to have effect.

4. Registration may be rendered necessary in order to obtain

(*d*) Professor Hancock's Evidence.

(*e*) Mr. J. E. Walters' evidence.

priority for a transaction affecting land as against another transaction relating to the same land which may claim the protection of the register; in other words, as between two transactions affecting the same lands, priority may be given to that which is first entered on the register. With reference to registration compulsory in this sense it has been urged (*f*), on the one hand, that by not making the original registration of title compulsory, the gradual adoption (if it shall take place) of the system will be, so far, a test of its usefulness and suitableness to the condition and wishes of the country, whilst its non-adoption would render it innocuous. It is further said, that, considering that the measure is novel in its character as well as in its operation—considering the advantage of gradually introducing it, instead of incumbering the registry office with a mass of applications which it would be difficult to get through—considering that the main object of establishing such a system is to obtain, if possible, a facility of transfer which many persons whose properties are kept in a course of settlement may not desire immediately to possess—and considering that the change is sure to recommend itself if it is likely to be followed by those benefits which are anticipated, it would be advisable, at least in the first instance, to make the registration purely voluntary. It is said, on the other hand (*g*), that there should be one law for the whole country, and that it would be a highly objectionable system to propose that some purchasers may bring their estates within the pale of registration, and others, at their option, remain unaffected thereby. It is also urged that a main benefit of the system will be lost, if the register should not be the sole and conclusive evidence of dealings taking place after the establishment of the register, or if, as to such dealings, a retrospective investigation of the title by purchasers should in any class of cases be necessary. Generation after generation (*h*) might pass away in the successive enjoyment of property without any assertion of title on the register; and when made, some thirty, forty, or fifty years hence, it must either be clothed with a Parliamentary or other warranted title, or else after that lapse of time a retrospective investigation of title would be needful. The conclusion to which we have come on this point, though not without some difference of opinion, is that registration shall not, at any rate in the first instance, be necessary to a transfer of the fee in order to obtain for it preference or priority over any subsequent transfer which may be brought to the registry for completion.

5. Another mode in which registration may be made compulsory is to require that, as to all land once voluntarily put on the register, the subsequent dealings and title should be always continued on the register. In this sense we concur in thinking that registration should be compulsory.

48. *Second question* (*Parliamentary Title*) *considered.*]—With reference to the second of the questions above pointed out, we think that the observations already made, showing that applicants for registration ought not to be required first to submit their title to judicial scrutiny, are sufficient to prove the objectionable nature of any scheme of registration which should profess to confer at the outset, a Parliamentary or unimpeachable title. It would, we think, be oppressive, either on the one hand to require claimants out of possession to come forward, and make assertion of their rights, in order to avoid losing them, or, on the other, to put the persons in possession to the defence of their rights, as against any stale claims or assertions of right that might be set up. We do not think that in order (*i*) to pass from our present system to a register of title it would be necessary, as has been suggested, to create a jurisdiction in commissioners, applicable to all land, whether incumbered or not, similar to that of the Incumbered Estates Court in Ireland, by which an absolute or Parliamentary title to the land, subject to leases or tenancies, should be declared. On the contrary, we concur in the opinion of one of the witnesses (*k*) who has given evidence before us, that to make a judicial or quasi-judicial examination of title an indispensable preliminary to admission to the register would greatly narrow the benefits of registration. The expense alone of the examination would exclude nearly all small properties, and the trouble and expense combined would exclude many others. Defective titles would necessarily be excluded; and we do not see why a defect in the title to land anterior to the introduction of registration need deprive that land of the benefit of an improved mode of transfer subsequently. We think that a registration founded on ostensible or possessory ownership should be permitted in the first instance, and that on such a registration the antecedent title might be left to be the subject of investigation, until by lapse of time or otherwise that investigation should become unnecessary.

49. *Third question* (*pre-existing interests*) *considered.*]—The next question we have to consider is, whether interests existing in land before the time of the first registration of the land shall be in any manner affected by the operation of the register, after the lapse of any given period or otherwise.

It has been strongly urged upon us (*l*), that, if the provisions of the registry should operate upon the subsequent title only, and if the old title should be left open to investigation for the full period during which it is now liable to be affected by latent rights, the utility of the registry would be wholly lost to the present generation. On the other hand, it is said that any one who by the existing law has an interest which he might set up, supposing there were no registration of the ownership, ought to be allowed the same period of time and the same opportunities that he now has for asserting his right, though the effect of his claim might be to disturb and undo the existing registration at a remote time subsequent to the commencement of the registry. The question hence arises, whether the principal benefit of the proposed system, which is the avoiding the necessity for retrospective investigation of the title, may not be secured by fair and reasonable provisions at some period earlier than the full time when all possible claims existing anterior to the registry would, by the existing law, have expired or become barred. We have been reminded (*m*) that if the legislature should adopt such a rule, it would be only following an analogy furnished by their predecessors. A statute of Henry 7th gave to a fine levied with proclamations after five years a conclusive effect. The proclamations were nevertheless in practice a mere fiction, and gave no real notice to others, and the period of five years was adopted at a time when communication was difficult and intercourse confined. The effect of a fine with proclamations remained in force until the Act was passed abolishing fines and recoveries; and it is said that its abolition by that Act, without a substitute, has been frequently regretted. It is contended that in the present day we have need, for the purposes of commerce, of the same policy which for different purposes and in a ruder state of society animated feudal tenures; and that the course of years has brought us round again to feel a want somewhat analogous to that felt in the early period of our history, though with different aims. It has been further urged (*n*) that if provision be made for the due publication of the registration or the application to register, the registration ought to be allowed to attain its conclusive effect, after the lapse of some period shorter than is now required by the general Statutes of Limitation to extinguish dormant rights; in other words, that the title if not impeached in a given time, say a short term of years, after the title is put upon the register, and full notice of it published, might pass into an absolute and unimpeachable title, at least for the purposes of sale, and thus retrospective investigation of the title avoided in the case of a sale to a purchaser. Those who entertain these views consider, however, at the same time, that all parties, or their trustees, should have the power or right, within the prescribed period, to show cause against the title, and should not be obliged to wait until their interests are reduced into possession; and further, that, with the view of justifying and facilitating the application of such a provision, some moderate evidence of ownership, sufficient to exclude the hypothesis of fraud, should be adduced by every applicant for registration.

The conclusion, however, to which we have come, though with some difference of opinion, is, that interests created in land before the commencement of registration should not be adversely bound or affected by the mere registration as such, but should be allowed to be claimed, notwithstanding the registration, within the period now fixed by the Statutes of Limitation.

50. *Fourth question* (*protection of beneficial interests*) *considered.*]—We next proceed to consider whether the registration of the legal ownership will be compatible with due protection of the equitable or beneficial interests in land.

It has sometimes been supposed that any system of registration of title will require a decision as to which of certain principles alleged to be irreconcileable touching the theory of

(*f*) Mr. J. B. Murphy's evidence.
(*g*) Mr. Kettle's evidence.
(*h*) Mr. Dugmore's evidence.
(*i*) Professor Hancock's evidence.
(*k*) Mr. Macdonnell's evidence.

(*l*) Commissioner Longfield's, Mr. J. B. Murphy's, Mr. Dugmore's, Mr. Meadows White's, and Mr. Farrer's evidence.
(*m*) Mr. Dobbs on the best means of giving increased facilities to the transfer of land.
(*n*) Mr. Clifford Lloyd's evidence.

disposition of landed property ought to prevail; whether, on the one hand, the stability of settlements, or, on the other, the safety of buyers, or, in other words, the protection of families or the marketability of land, ought to form the paramount consideration. After mature examination, however, we have been led to the conclusion that no such dilemma is in fact involved in the institution of a registry of title.

Were we to allow, however, that such a difficulty does, in fact, present itself, we should be able to rely, as has been well remarked, (*o*) on our ancient law as affording for the present purpose a wise and useful precedent; for just as the feudal law required that the freehold should always be filled by one capable of contributing to national defence, and performing the duties of a feudal follower, so the spirit of commerce now demands that for its purposes also the fee simple in land shall always be represented and be in the possession of persons capable of fulfilling those new duties and offices which the ownership of land in the present state of society entails or involves.

As regards the sale and transfer of land, it is clear (*p*) that much good would not be obtained by merely registering the fee, or, in other words, the legal title, unless the purchaser could dispense with inquiry into the equitable title, with its incidents. Unless a purchaser be protected from inquiring into trusts, there will not be any advantage to him. In other words (*q*) if trusts and limitations are to continue to form part of the title in all respects as they now do, the registry of title will be useless, or at least not worth the danger and difficulty attendant upon the introduction of a new system.

The question, then, is (*r*), whether the present system of settlements can be modified without materially interfering with the nature or quantum of interests commonly created by them. Any material interference with the nature of such interests would be objectionable; but, under modified forms, the system may, we think, be continued consistently with the objects contemplated by a register of title.

Equitable interests and trusts cannot (*s*), consistently with the objects to be attained by registration of title, bind or affect the ownership of a registered purchaser, unless such interests are of his own creation; but they may be allowed to confer a right against the land whilst in the possession of the owner who created the trusts, or in that of his representative, or volunteers claiming under him. When the land is sold without fraud, the equities and trusts must be transferred to the funds arising from the sale; and so the purchaser will take the lands discharged of the trusts. But they may be protected on the register of title by the trustee of the family settlement, or by a trustee named by the Court of Chancery, and sales by the settlor or the trustee in contravention of the trusts may be prevented by entering an inhibition or caveat.

Thus the existing system of settlements, by which the limitations and trusts of the settlement modify and become part of the title, will be unchanged under a registry of title, so long as the land continues in the possession of the settlor or volunteers claiming under him, or the trustees of the settlement. Upon a sale without fraud, these limitations and trusts will attach to the funds arising from the sale.

It has been suggested (*t*) as another mode of providing for equitable interests, that where a person beneficially interested enters an inhibition or caveat, it would be a convenient mode to enter the name and address of such party in the principal register, with a reference to a distinct register in which the nature of the equity might be specified, and this latter register would be in the nature of a register of trusts, and the legal title could thus be kept distinct from that relating to the equities. This corresponds to the suggestion already made, that in order to perfect the system of registration it may be expedient hereafter to establish a subordinate register of equitable and secondary estates, independent of the principal registry of the fee.

We are aware that it has been objected (*u*) to the portion of the proposed system now under consideration, that partial and equitable interests constitute a very large proportion of landed interests, and that while to require them to be registered would be to sacrifice the simplicity of the register, to exclude therefrom the register would be to jeopardise them, by placing them at the mercy of the registered owner, except so far as the persons entitled to such interests might become active in using the allowed means of restricting his power of disposition. It is remarked with truth, that the owners of these interests may now remain passive, and yet be sufficiently protected. It is therefore contended, that, to deprive them of their present grounds of security, and substitute the necessity of taking active measure, by distringas or otherwise, to protect themselves from improper dealing on the part of the registered owner, would be placing such owners in a new and critical condition, requiring much intelligence and caution, and would tend greatly to diminish the value of these numerous and very important interests, which are themselves constantly the subjects of sale and transfer. A settlement of land, it is said (*w*), would, under such a system, come not to differ practically from a settlement of a sum of stock, which would be felt by some to be an evil; many preferring an interest in land, because, to use a not uncommon expression, "while they are sleeping, land cannot run away."

We may remark, however, in reference to these objections, that experience and existing practice will furnish the best answer to them. According to the modern practice of conveyancing, the apprehended danger has not been found to arise in analogous cases, where trustees are clothed with as large powers as they would have under the proposed system. That practice has especially been directed to avoid the embarrassment of a complicated system of trusts, which, by the rules of equity, fasten themselves on the land, and provisions are constantly inserted (*x*) in settlements, to render it unnecessary that purchasers or mortgagees, when dealing with trustees, should be forced to see to the circumstances under which the trust is performed, or the manner in which the proceeds are applied. For example, under the present system most well-drawn settlements of landed estates contain clauses empowering the trustees to sell, with the consent of the tenant for life, if he be living, but if he be dead, at their sole discretion, and to give absolute discharges for the purchase money; and yet no sales, excepting those within the object and provisions of the trust, are ever heard of. Again, this principle is carried so far that the property is often conveyed to the trustees by one deed, while the trusts are declared by another. And what is the object of these complicated proceedings, except that the trustees may appear to the purchasers, or be treated by them, as absolute owners, and that those purchasers need not know anything of the purposes for which they hold the property? Again, under the present system of conveyancing, a mortgagee has usually a power of sale, which he may exercise without the concurrence of the mortgagor; but experience has shown that this power is very rarely abused, and it is uniformly given without hesitation. We therefore think that the practice (*y*) of inserting powers of sale in settlements and mortgages proves that the proposed scheme of registration, when properly understood, will not be considered objectionable by landowners. Nor should it be forgotten that there are millions of money in the funds, and in railways, canals, docks, and other undertakings, left to a great extent in the names of trustees, and yet it has been found that property so circumstanced is practically safe. Can it be believed that what is safe for beneficial interests in such property, when prudently looked after, will be otherwise than safe when applied to land, especially if there are thrown over it those additional protections which we recommend in this report? With such protections, prudently claimed and carefully acted on, we conceive the answer must be in the negative. And if any further proof were needed, we should find it in the fact that the legislature itself has recognised (*z*) the principle upon which we proceed, and applied it to property in British ships, as may be seen by the recent statute for amending and consolidating the acts upon that subject.

It may also deserve remark (*a*), with reference to the supposed objection arising from the risk of fraudulent sales by trustees, that the contemplated sale of land is usually known to tenants and other persons in the locality, and is therefore less likely to be effected by fraud than transfers of stock.

51. *Fifth question (Metropolitan or Provincial Office) considered.*] —The remaining question is, whether the register shall be a metropolitan or provincial one, or, in other words, whether it shall be central or local, or both central and local? Or, to put the question more accurately, shall there be—

(*o*) Mr. Dobbs, on the best means of giving increased facilities to the transfer of land.
(*p*) Messrs. Nicholl's and Smyth's evidence.
(*q*) Commissioner Longfield's evidence.
(*r*) Mr. Dugmore's evidence.
(*s*) Professor Hancock's evidence.
(*t*) Mr. Warner's evidence.
(*u*) Mr. J. T. Humphrey's evidence.
(*w*). Mr. Alfred Bell's evidence.
(*x*) See on this subject the Report of the Registration and Conveyancing Commission, p. 30.
(*y*). See Mr. Geo. Sweet's evidence.
(*z*) See 17 & 18 Vict. c. 104, s. 30, &c.
(*a*) Professor Hancock's evidence.

One central register for the whole kingdom; or,

Several county registers for the several subdivisions of the whole kingdom; or

One central register for the whole kingdom, with branch offices in the principal towns throughout the kingdom?

A central register for the whole kingdom would, of course, be established in the metropolis; county registers would probably be in the largest, or most central, or most generally accessible town in the county.

The advantages of a metropolitan register over county registers have been stated to be the following:—

1st. Under a metropolitan register a uniformity of system throughout the whole kingdom would be established, which would hardly be attainable, or at any rate maintained, in several county registers.

2nd. One metropolitan register would be much less expensive than from fifty to sixty county registers. For in each county register there would necessarily be an efficient registrar, and a deputy competent to discharge the duties of the registrar during his absence from illness or other inevitable cause.

3rd. One metropolitan register, under the superintendence of a registrar of high professional attainments and experience, and efficient deputies and subordinate officers, would inspire more confidence on the part of the landowners of the country than several county registers would do.

4th. The registers of judgments, bankruptcies, and insolvencies must necessarily be metropolitan.

5th. The suggested system of distringas would be more efficiently worked, and uniformity of practice would be more securely preserved, in one metropolitan register than in numerous county registers.

6th. A metropolitan register would be less expensive to parties employing solicitors resident in the country. Every solicitor in the country, without exception, has an agent in London with whom he is in daily confidential unreserved communication, and no additional expense, or the smallest additional expense possible, is occasioned to the client by reason of the employment of a London agent. The remuneration of a solicitor is on a fixed scale, and, as to the business transacted by the agent, the remuneration is divided between the agent and country solicitor. They are, as regards the particular transaction, very much in the position of partners residing in different towns. Through his London agent, therefore, the country solicitor might obtain from the metropolitan registry all the required information, at the same cost to the client as if the register were in the town where the country solicitor practised. But the country solicitor rarely has a confidential agent in any other place than London, and if he does not reside in the register-town he would be obliged to employ a local solicitor, or to make a journey to the registry for the purpose of search or registration, and it would often happen, where secrecy was desired, that he would find it his duty to incur the expense of a journey.

7th. With county registers it would constantly occur, that solicitors in distant parts of the country, as well as solicitors in the metropolis, would have no knowledge of the solicitors in the particular town where the county register might be. Many of the solicitors in large practice in London have clients who are landowners in many of the counties in England, and they would be much inconvenienced and embarrassed by a system of county registers.

8th. The ordinary communication between London and country towns, to say nothing of the telegraph, is often much more rapid and regular than between one country town and another, and of course the postage of letters is the same whatever the distance may be.

It has, on the other hand, been urged (*b*) that the registrar ought to be charged with the duty of ascertaining the accuracy of the description and identity of the land, and that, to insure this, a local register would be indispensable, and that a union of the two systems would be at once practicable and desirable.

With reference, therefore, to the question whether the office should be a single metropolitan office, or whether it should be subdivided into various provincial offices, our opinion is, that both suggestions may be combined with great advantage. The principal office should be situated in London; but local or district registries should be also established.

We now proceed to state the leading particulars of the registration we recommend.

As to Registration of Title.—Leading Particulars of the Plan recommended.

52. *The Office.*]—A land register and transfer office for England and Wales will be established in London under the management of a registrar general; and branch offices will be also established in different districts throughout the kingdom, subject to the orders and regulated by the authority of the Registrar General.

53. *The kinds of property.*]—The registration will extend to all corporeal hereditaments, except copyholds, and to advowsons and rentcharges, except perhaps tithe rentcharges.

54. *General right of owners in fee simple to obtain registration.*]—After the estsblishment of the office, all owners or proprietors of land who have the right of possessing or the power of disposing of it in fee simple will be at liberty to apply for the registration of the ownership thereof; so that such ownership, or the title to the land which is the subject of the same, may thenceforth be manifested by the register alone.

Supposing this to be accomplished safely and with prudence, the effect of the register, when in complete operation, will be to render it unnecessary, in dealing with land which has so been registered, to look beyond the last ownership appearing on the register, and thus the expense of long investigations of title,—of deducing that title through numerous assurances, pedigrees, and devolutions,—of requiring covenants for the production of deeds in the hands of third parties,—of lengthened abstracts, recitals, and conveyances,—will, on the occasion of future alienation, as the register advances, be gradually diminished, and eventually be altogether avoided.

Two difficulties, however, here arise: the one in first bringing titles on the register; the other, in protecting the different interests and incumbrances which may now be derived out of or charged on the fee simple of land, and connecting them with the registered ownership. We have endeavoured to remove both these difficulties.

55. *Two kinds of registered ownership.*]—Registration of title is proposed to be twofold; one, which shall at once enable the registered owner to transfer the estate with a present or immediate statutory title; the other, registration of actual ownership, without the power to transfer an immediate statutory title.

56. *Prevention of improper attempts at registration.*]—In the second of these cases, that is, in the case of registration unattended with immediate statutory title, the parties applying will be required to produce before the registrar a declaration on oath, stating that they are in the actual enjoyment of the rents and profits, and that they believe themselves to be absolutely entitled to the land in fee simple free from all incumbrances, or subject only to such incumbrances as are distinctly specified; and they will also be required to produce, where it can be done, the last instrument of conveyance of the fee simple, or such other evidence as the registrar may find it necessary to require, with the view of excluding fraudulent claims. Powers also will be conferred on the registrar to give such public and other notices as he may deem necessary of the intention of the parties to have the property registered, in order that they may not wrongfully procure a registration which may be detrimental to other persons.

But where the title to lands has been ascertained by decree or judgment of any court whose jurisdiction is competent to determine the right, there the production of such decree or judgment by the person in whose favour it may have been made, or the order of the court consequent thereon, will alone be sufficient to authorise the registrar to register the ownership of such person, subject to the necessity of making such declaration and serving such notices as above adverted to.

57. *Registration with warranted title.*]—Registration with immediate statutory title will take place in those cases where the owner of the land desires, not only to obtain a title which, with regard to the future, will be manifested and established by the register alone, but a title which with regard to the past cannot be disturbed. We have already adverted to this part of the subject, and we have stated, for reasons which we need not repeat, that the suggestion of a guarantee or warranty of title is in our opinion most valuable (see paragraph 30). In this class of cases (*c*) it will be lawful for the parties seeking registration with the benefits of a warranted ownership to apply to the registrar to have the title investigated with that object. In such cases, it will be right that the registrar should cause the title to be fully investigated, at the expense of the parties, by counsel and solicitors; and if he shall be satisfied on their advice that the title is a good one, then, on the payment of a small premium, to be calculated by way of a per-centage upon

(*b*) Mr. J. Meadows White's evidence.

(*c*) Mr. Headlam objects to the system of warranty. See his paper in the Appendix.

the estimated value of the property in question, he will register the ownership as a warranted one, either in the name of the party applying, or, if the party applying shall prefer it, then in the name of such persons as he may nominate for that purpose. Since the guarantee of the title will be given by a public officer, the premiums payable by the party obtaining such guarantee will be paid into the Exchequer; and the Consolidated Fund will be liable to make a fair and reasonable compensation to any person who may within the period allowed by law establish a claim in respect of the estate, the title to which has thus been registered with a warranted ownership. A similar provision will also be extended to those cases where land is sold under the decree of a court, subject to the payment of similar premiums, and to the title being examined and approved of in a similar manner (*d*.)

It may here be mentioned, that the suggested warranty has the advantage of precedent in its favour. For when lands are sold (*e*) by the principal officers of the Ordnance department, Parliament has empowered them to give to purchasers a clear and indefeasible title, making compensation to those persons who can establish within a limited period any legal or equitable right to the property.

58. *Certificate of ownership.*]—In both the above cases, for the convenience of parties, as evidence of their title to the property registered, and for other purposes which we will hereafter refer to, a certificate of the fact that it has been registered will be delivered by the registrar to the party applying; and this certificate, duly authenticated by the seal of the office, will be a certificate either of warranted or unwarranted ownership, as the case may be. It will be advisable that this certificate should state on the face of it the name of the registered owner, the lands registered, and the incumbrances (if any) to which they are subject. It will also contain a reference to the indexes which relate to the entry thereof in the books of the registry.

59. *General effect of registration.*]—The general effect of the kind of registration here recommended will be, that, for the purposes of transfer, the registered ownership will at all times represent the fee simple of the property, and, as such, it will not be capable of any subdivision or modification into partial or limited estates or interests, except so far as charges and leases may also be admitted to the benefit of registration under the provisions which we shall presently mention.

60. *Right of disposition incident to the registered ownership.*]—The right to dispose of and transfer the ownership of land in fee, including the right to charge and lease the same, will belong and be incident to and in fact be taken as forming part of the registered ownership.

61. *What unwarranted ownership freed from, and what not.*]—When the registered ownership has not been warranted, it will be subject to such rights and interests as existed in or were capable of attaching upon the property at the time of the first registration, but it will not be subject to any rights or interests arising or created at any period subsequent to the time when the first register was effected, except charges and leases admitted to the register, and except interests protected by caveat or inhibition, as afterwards mentioned. Thenceforward the title to the property for the purpose of transfer will be manifested by the register, and by that alone; and so eventually the only title to land which a purchaser need examine will be the last transfer as the same is recorded in the registrar's books. At the commencement, indeed, the validity of the title of the first registered owner will still depend, as it does now, on the validity of the title of the party by whom the transfer has been made. But as time passes on this title will gradually strengthen itself, until it has reached a period which, under the operation of the Statute of Limitations, will make it complete, and mature it into an unimpeachable statutory title. Year by year the purchaser will be brought nearer and nearer to this result, and so the expenses which attend the retrospective investigation of title will be gradually diminished, until they reach their minimum point.

62. *What warranted ownership freed from.*]—When the registered ownership is a warranted ownership, the special advantages to be derived from this system of registration will immediately follow. In such cases the registered ownership will be subject only to other registered rights, and will be exempt at once from all latent claims and interests which may have been created previously to the time when the property is registered. The registered owner will therefore have, forthwith, for the purposes of transfer, a simple, complete, and indefeasible title.

(*d*) Mr. Napier approves of the proposal to make decretal titles under judicial sales indefeasible; but objects to a warranty by the registrar as above.

(*e*) See 5 & 6 Vict. c. 94, ss. 5 to 15.

Such a result will tend, not only to diminish the expenses attending the transfer of land, but also to increase the value of land as a marketable commodity; for the value of land when offered for sale is not merely to be measured by the purchase money paid, but likewise by the costs which the vendors and purchasers must necessarily incur in deducing the title, and ascertaining its validity. In proportion as these costs are diminished the value of the land will be raised. Great as these advantages unquestionably are, they are not the only advantages which may be expected from a system of warranted ownership; for a well-devised scheme of warranted ownership will afford so perfect a security to titles that no latent interests, no dormant trusts, no fresh claims, which may have been concealed or overlooked, can possibly interfere with the enjoyment of the purchaser; and the land will be as clear from all rights, other than those which are actually registered, as stock which is purchased in open market.

63. *What registered ownership, whether warranted or not, will be subject to.*]—The registered ownership, whether warranted or otherwise, will at all times represent, for the purposes of transfer, what is usually known as the fee simple, subject to such charges and leases as may be admitted to the register, and in the case of ownership not warranted, to the title antecedent to the first registration. In other words, the register will be a substitute for the documentary or parchment title. But the registered ownership, whether warranted or otherwise, will remain subject, as the fee simple now is, first, to such other rights as are not usually included in the abstract of title (*f*) that is to say, those rights which are incident to the property in a physical rather than a legal sense, and those which are presumed to attach on all landed property; and secondly, also to such rights as may be ascertained by inspection on the land itself, or by inquiry of the occupier. Under the first of these heads we include all easements, such as rights of water, rights of way, rights of sporting, and rights to light, and those interests which are denominated in law profits *à prendre*, and tithe rentcharges, land tax, and other taxes and rates of a general character; under the second we include short leases at rackrent where the lessee is in actual occupation of the premises. These are rights which are commonly evidenced by known usage or continued enjoyment, or may be ascertained on the spot by inspection or inquiry; and the title to them is generally so independent of the documentary title to the property that they will necessarily form a partial exception to that which will constitute the registered ownership, whether warranted or not.

64. *Facility of obtaining loans.*]—It may be convenient, before quitting this branch of the subject, to point out as one of the effects of such a system of registration the great facilities which it will afford to landowners to obtain loans for temporary purposes. The possession of the certificate of the registered ownership, as an equitable security for money advanced, will confer the same privileges and be attended with the same rights as those which are derived from the possession of title deeds under a deposit. And it can hardly be doubted, that, for the security of those who advance money under such deposits, the assurance that there could only be one title deed to the property pledged would be of much importance. In transactions of this kind, the lender is always liable to be imposed upon by the suppression or concealment of some particular deeds which may qualify the borrower's right, and we therefore concur in an opinion expressed by one of the witnesses before the Select Committee of the House of Commons (*g*), that "it is probably not too much to say, that there is no point on which the proposed registration of land property would work better than in improving the security of lenders on deposits of title deeds, and consequently, so far as facilities in borrowing inexpensively may be deemed advantageous, in facilitating the obtaining of loans on such deposits."

65. *Mode of protecting unregistered interests.*]—The second difficulty to which we have adverted is the difficulty of providing an adequate security for those interests which are not of a nature to be admitted to the register. The ownership of land, whether registered or not, will still be subject to various derivative or beneficial interests which will require protection. The distinction between legal and equitable interests is not a mere technical distinction. It is a matter of fact. Its continuance is necessary for the full enjoyment of property. So far as the interests of purchasers exclusively are concerned, it would be better, no doubt, that the vendors or registered owners should in all cases be the sole owners, both at law and in equity. But

(*f*) See Mr. Commissioner Hargreave's evidence.

(*g*) See Mr. Bullar's suggestions and notes in Appendix No. 3 to the Report of Select Committee on Registration of Assurances Bill, p. 151, No. 34.

the beneficial ownership or equitable estate being often divided between several persons, the right of present enjoyment being in one person, and the right of future enjoyment in another, and the person who is entitled to the present enjoyment being sometimes a minor or under other disability, and the person entitled to the future enjoyment being sometimes unborn or unascertained, a necessity arises which must be attended to of protecting interests such as these, which would still be unregistered, against the unjust acts of the registered owner. Occasionally it has been thought that the equitable interests might be put on the register; but if that is done it is demonstrable, as we have observed in a previous part of this Report, that the advantages of a registry of title would soon be lost, since it would become in fact little else than a registry of assurances, and a very imperfect one. The protection must be provided in some other mode, and we think it may be obtained in various ways.

66. *Same subject—No survivorship between registered owners.*]—Where the parties to a settlement desire it, they will have the power of registering the property in the names of two or more persons as registered owners, with a short note (the words "no survivorship" will be sufficient), intimating that in the case of the death of either the *jus accrescendi* is not to have place (*h*). The effect of this will be, that if one of the registered owners die, no alteration of the ownership can be made until his place is filled up. And as the prevailing instances of fraudulent or improper alienation of stock are those where it has devolved upon one trustee, this simple provision (which will completely prevent the devolution of the registered ownership upon a smaller number of persons than those first registered) will operate as an almost perfect protection to all parties who have or may have any kind of interest in the registered land under any settlement of which the registered owners are trustees.

67. *Same subject—Caveats to prevent sale without consent.*]—As a further protection, those parties who are entitled to any unregistered interest which, as the law now stands, would render their concurrence necessary in a sale of the fee, will be at liberty to enter in the registry a caveat (*i*) or inhibition against the transfer of the registered ownership. This caveat or inhibition may and ought to be of various kinds, or various in its operation, so as to adapt itself to the different circumstances under which it will be required. To prevent abuse it will be lodged at the register office, only under proper sanctions, such as the consent of the registered owner, or the order of the Court of Chancery if the registered owner improperly refuse to give his consent; and to secure protection suited to the various conditions of settlements, the caveat or inhibition will be allowed to be so framed as to prohibit the transfer of the registered ownership either for a time specified, or during particular lives, or until the occurrence of a stated event, or without the concurrence of certain parties who for that purpose may be named or referred to as protectors, or under any other condition conformable to law which the parties themselves may think fit to impose. The simple effect of such a provision will be, that as long as the caveat or inhibition remains, the registered ownership cannot be alienated without the permission of those whose consent will be thus rendered necessary; but if all these parties desire a sale, that consent can previously be obtained, and so the purchaser will always be able to contract for the property, on the express condition, or with the absolute certainty, that he need not move in the matter until the title has become perfectly clear of the equitable interests thus interposed (*j*).

68. *Same subject — Injunction by court.*]—When it is remembered that the protection thus afforded to the beneficiaries of land will be greater than that which is now afforded to the beneficiaries of stock or railway shares, there can hardly be a doubt that—taken in connexion with the fact, that, except as against purchasers without fraud, the beneficial interests will continue as now to affect the land—these various methods of protection will be found sufficient. If it be suggested that fraud may still be practised, the answer is, that there will still remain the remedy by suit, by injunction, and by account. For it is to be observed, that an unregistered interest will entitle the beneficiary to enforce the performance by the registered owner, not being a purchaser, of such duties as properly ought to be observed and performed by him; and for that purpose, but for that purpose only, those duties will be deemed to be trusts cognizable, like other trusts, in the Court of Chancery, and determined, like other trusts, on the principles of equity.

69. *Registered owner where only a trustee, not to retain the registered ownership as against the beneficiaries after trusts satisfied; but this not to affect purchasers.*]—Where the registered owner shall be a person named such for the purposes of any settlement, then, as between such registered owner and the beneficiaries interested under the settlement, he will not be at liberty to retain the registered ownership, or to remain on the register as registered owner for any longer period or under any other circumstances than according to the present rules of courts of equity he would be entitled to retain the legal estate if he were a trustee of the fee upon trusts similar to the provisions contained in such settlement, and he will be bound to make a grant of the registered ownership to such person as may be named in that behalf by the beneficiaries.

70. *On death of registered owner his executor to be the new registered owner, or a new registered owner to be appointed.*]—In order to keep up the chain of title, and to prevent the difficulty which might arise upon the death of any registered owner in obtaining a transfer, we think it will be convenient, that, for the purposes of this measure, as well as for the purposes suggested by the Chancery Commissioners, a real representative should be appointed, upon whom the registered ownership shall devolve. This representative will be ordinarily the executor; but where an executor has not been named, or where he has died or renounced probate, power will be given to the parties interested to apply to the registrar or to a judge to supply the place of the deceased registered owner, and to enter the name of some proper person in his stead.

71. *All powers now possessed by landowners left untouched.*]—We have already intimated that in our opinion no plan of registration will be acceptable or desirable, unless it leaves substantially and practically to the owners of land the same power of disposition and enjoyment, and means of protection and security, as those which they possess under the present system. The plan recommended will secure this object. For, subject and in subordination to the registered ownership, qualified and explained as we have mentioned, the owners of land or of the unregistered interests therein will be at liberty to settle, devise, and deal with the same for the like estates, to the like extent, and generally in the like manner, as by the rules of law and equity they would have been entitled to do if the registration of the ownership had not taken place. All the rights of tenants for life or other persons having partial interests will be left unaffected and undisturbed, for the registration will not interfere with the right of beneficial enjoyment and management of the land, and the property cannot be dealt with by the registered owner except when a transfer is by the absence of a caveat impliedly permitted. It may also be observed, that such a system will have the effect of keeping private all family arrangements, while it will continue the enjoyment under them, and provide for their security. So that the advantages of trusts and settlements will be effectually preserved; while the title will not be incumbered, nor the transfer impeded by any notice of such trusts or settlements. The provisions necessary to prevent alienation against the will of those who are entitled to say that the property shall not be sold will not involve any such notice.

72. *As to persons becoming registered owners by gift.*]—Registered transferees without valuable consideration will be subject to the claims of the persons interested in the unregistered ownership, in the same manner as their transferror would have been; but this can be so provided for as not to affect registered purchasers from volunteers, without fraud; and a further provision can be added, that it shall not be necessary to inquire whether the registered owner acquired his title as a purchaser or not.

73. *As to notice and fraud.*]—We propose that fraud in obtaining a transfer of the registered ownership shall defeat the title of the person who becomes registered owner by fraud, but that notice of unregistered rights shall not merely as notice have any such effect. We think that though the purchaser in the course of his inquiries, or before he concludes the purchase, has notice of any claims upon the estate, it will not be unjust to deprive the parties interested in such claims of their rights in favour of such purchaser, if their rights are not protected upon the register. We do not agree (*k*) that any at-

(*h*) See Mr. Commissioner Longfield's answer to question 24.

(*i*) Mr. Scully considers that more convenient modes of protecting unregistered interests might be provided than the proposed caveats. See his paper at the end of the report.

(*j*) It has been suggested that it might be lawful for the parties interested in the trusts of any settlement or will to deposit privately with the registrar a copy of the settlement or will at the time when the lands which are or may be the subject of such settlement are entered on the register, with a private instruction that no transfer shall be afterwards made of the registered ownership without the consent of the parties who for the time being may be interested, or who may have power of consenting under the settlement or will, or otherwise than under and in conformity with the powers of the settlement or will.

(*k*) Mr. J. E. Walters' evidence.

tempt to exclude the application of the doctrine of notice would prove abortive. We are aware that it has been said that the judges would, notwithstanding any law to the contrary, in the course of time contrive some means of neutralising any enactment which went to exclude the doctrine of notice, just as our courts of old contrived to prevent the Statute of Uses having the effect intended by the Legislature; and that to abolish the doctrine of notice altogether would be contrary to every principle of justice and equity. After full consideration, however, we cannot adopt these views, but, on the contrary, we concur generally in the reasons adduced by the Real Property Commissioners in their Second Report (*l*), in favour of excluding the interference of courts of equity on the ground of notice.

74. *Mode of describing and identifying lands on register.*]—In determining the provisions necessary for securing a proper description of and the means of identifying the lands admitted to the register, it will be useful to bear in mind (*m*) that in every investigation of title there are three important questions to be attended to, viz.—First, whether the title deeds disclose a clear title to the lands described in them?—secondly, whether in that description all the lands intended to be dealt with are truly comprised?—and, thirdly, whether the actual possession of the lands is consistent with the title as so disclosed? Now, looking at the plan which is here recommended, it is clear that the difficulties arising from the first of these questions will be completely met when the register is in full action. For a purchaser will not be under any necessity of requiring and examining documentary evidence, the register alone, for purposes of transfer, manifesting at once the title to the lands which form the subject of the registered ownership. With reference to the third point, it will still be necessary that the possession of lands should be inquired into by purchasers, lest it should be adverse to the registered ownership. The second, however, of these questions, we have here more particularly to consider. We have intimated our opinion (see Paragraph 35) that although the compulsory formation of public maps would be open to many and grave objections, yet the use of a map properly authenticated for each individual property, together with the customary verbal description, would probably furnish the best means of describing and identifying the land, and indexing it correctly. To accomplish this object in the fullest manner, we accordingly recommend—

1. That the registrar shall have power to require the description of the registered lands to be stated and set forth in such form and manner as he may deem to be best fitted for the purposes of registration.

2. That at the time of registration it shall be lawful for the registrar to require the parties applying to be registered as owners of any lands, to produce a private map or plan of the lands proposed or intended to be registered; and that such map or plan shall be made on such scale and contain such particulars for identifying the same with the property registered as the registrar by any general or special regulation may in that behalf require.

3. That, before the registration of the ownership of any land, the private map or plan so produced by the applicant shall in every case be referred to in the description of the lands required to be entered on the register itself.

4. That the registrar shall also be empowered to require at the time of registration that the property proposed or intended to be registered shall contain a reference in the description given of it to some public map to be kept in the registry.

5. That for that purpose he shall be at liberty to declare that the maps made under the direction of the Master-General of the Ordnance, the Tithe Commutation maps, or any other maps of the accuracy of which he is satisfied, shall be deemed public maps for the purposes of registration; and if he thinks fit he shall cause copies or reprints of any parts thereof to be made, either on the existing or on an enlarged scale; and such maps as are directed to be used for the purposes of registration shall be deposited in the registrar's office, and copies thereof published and sold in such manner and subject to such provisions as the registrar may direct.

6. And that as the main object of the public maps will be to facilitate searches and references, the registrar shall be empowered to adapt the maps to the districts created for the purposes of registration, or to form the districts with reference to the number, quality, and description of the available public maps, so that each district may have its own public map or maps to which the parties seeking for information will be able to refer.

(*l*) Pp. 37—40.
(*m*) See Mr. Cookson's paper, Appendix A.

75. *Mode of transferring the registered ownership.*]—Having thus provided for the first registration of title to lands, for the protection to be given to unregistered interests, and for the mode in which the identity of the property may be ascertained, the provision to be made for subsequent dealings with the registered ownership by way of transfer, mortgage, or lease, will be comparatively easy. Beginning with transfers, when the registered ownership is in a single name and unfettered by a caveat, that party alone can go to the registrar, and desire the transfer, on production of the certificate of registered ownership. When a purchaser has bought the land of the registered owner, the application of the one and the authority of the other will, on the production of the like certificate and a deed of grant, be sufficient for the purpose. And when the ownership has been guarded by caveats, the previous withdrawal of them, on the consent of the persons in whose names they are entered, or by an order of court, will enable a purchaser without any trouble or any further inquiry to see at once whether he can complete his contract. The transfer will be made by deed, and in a short and simple form, which the Act will authorise. On proper evidence being adduced before the registrar of the validity of the deed, he will enter in the register the name of the transferree in the place of the transferror. When that has been done the transfer will be complete, and will pass the whole fee-simple; and on the completion of it the registrar will deliver to the transferree a fresh certificate of registered ownership, if the whole of the registered land has been transferred; but if the transfer is confined to a part, he will deliver to the transferree a certificate of ownership limited to such part; and he will deliver to the transferror a fresh certificate of ownership containing a description of the lands retained by him.

The effect of such transfer will be, to give to the person registered an absolute title to the lands so registered for the purpose of alienation, free from all interests created subsequently to the first registration of the land. If the registered ownership is a warranted ownership, it will further be freed and discharged of all estates and interests whatsoever, excepting easements, registered leases, and registered charges; but if the ownership has not been warranted, it will be subject to any claims which existed at the time of the first registration, and have not since become extinguished or barred by time.

76. *Registration of incumbrances.*]—With regard to incumbrances, we (*n*) think that the benefits to be derived from registration should be extended to the owners of charges upon the fee of land as fully as to the owners of the fee itself. The registration of charges may properly be subjected to the following rules:—

1. Every charge intended to be registered shall so be entered on the register as to show the name of the owner thereof, the lands upon which the same is made, the amount of money secured thereby, the rate of interest payable thereon, and the date of the instrument by which it is created.

2. Every such charge shall also be entered under some proper sanction, such as the consent of the registered owner to the registration thereof, or the order of a competent Court decreeing or directing the same to be registered.

3. On the registration of such charge the registered ownership will be subject to the legal rights and powers incident to the charge, and either may be transferred independently of the other.

4. A certificate of the charge will be given by the registrar to the party applying to register the same.

5. The priorities of all charges shall be determined exclusively according to the dates of their respective registration.

6. Unregistered charges shall only take effect as unregistered interests, but may be protected in like manner as unregistered intetests.

77. *Registration of leases.*]—The benefit of registration will also (*o*) be conferred on the owners of leases for the term of twenty-one years and upwards. The registration of leases will be subject to the following rules:—

1. Every lease intended to be registered shall so be entered as to show the name of the owner thereof, the length of the term, the date of the lease, and the rent reserved.

2. Every such lease shall also be entered under some proper sanction, such as the consent of the registered owner, or the order of a competent court decreeing or directing the same to be registered.

3. On registering such lease the registered ownership will be

(*n*) Mr. Headlam objects to an Independant Register of Incumbrances or Leases. See his paper in the Appendix.
(*o*) See Note (*m*).

subject to the legal rights incident to the lease, and either may be transferred independently of the other.

4. A certificate of the lease will be given by the registrar to the party applying for the registration of the same.

78. *Transfer of incumbrances and leases.*]—The mode of transferring registered charges and registered leaseholds will be similar in all respects, *mutatis mutandis*, to the mode of transferring the registered ownership. And on the death of the registered owners thereof, their representatives will be entitled to be registered in their place.

79. *Extension of powers of sale of Court of Chancery.*]—There are some cases in which provisions, in connection with the proposed register, may be made to facilitate the sale and transfer of land, though not provisions which can be said to be indispensable to the system as a system of registration. It has been suggested to us (*p*) that means might be devised by which the conversion of land into money could be effected at once, with the concurrence only of the person having possession and enjoyment of the land, if care were taken to provide a safe independent place of deposit for the money for division among the parties having pecuniary claims on it. Facilities, it is said (*q*), might be given in some cases to allow the transfer of the land to proceed, impounding the consideration for the transfer, and fixing it with the equities under notice. This, it is urged, would be specially desirable in cases of pecuniary claims or charges on the land the title to which charges may be embarrassed.

We have adopted these views, and propose to vest in the Court of Chancery certain powers for the purpose suggested.

80. *Indexes.*]—A provision which it is most important to attend to is the mode of indexing the property registered. This must be left to a great extent to the determination of the registrar. But since there are three matters more or less distinct from each other, yet more or less connected together, which would have to be entered in different ways, namely, registered ownerships, registered charges, and registered leases, there must be also three sets of indexes corresponding therewith; namely, first, an index of registered owners; secondly, an index of incumbrancers; and, thirdly, an index of lessees; and these indexes should so far refer to each other that the registered ownerships should always show by a distinct reference whether such ownership was subject or not to any existing charge or lease.

81. *Miscellaneous provisions.*]—With regard to some miscellaneous questions as to the machinery of the proposed registry, we think that the title deeds should not be required to be delivered up to the registrar; that the registrar should have a general power of determining conflicting claims by consent, or of putting them in a course of judicial determination; that no tenancy in common should be allowed in a registered ownership; that a general power should be given to the registrar of making necessary regulations; and that there should be a difference of fees for large and small transactions.

82. *Authority of register.*]—With regard, however, to the powers to be entrusted to the registrar, we conceive, that, as a general principle, his authority should be ministerial and executive in its nature, and not judicial. We agree in an observation contained in the evidence before us (*r*), that there is no feeling more strongly rooted in the public mind than dislike of official interference with their private affairs, and any system must be considered practically impossible, however theoretically perfect, which would render the approval or sanction of a registrar necessary for the completion of transfers, or would give him any discretionary power to prevent them.

Conclusions in Favour of, and Answers to Objections against, the Plan recommended.

83. *General conclusions in favour of the measure.*]—This measure, so novel in its character and so difficult in detail, demanded from us and has received the most careful and searching examination. The best means, in fact, of testing its practicability were afforded to us before this report was drawn up, by the labours of one of the Commissioners, who prepared the sketch of a Bill (*s*), with the requisite provisions and machinery for the practical working of the measure. This Bill, which will be found in the Appendix, was examined by us in detail, and from it we derived much valuable assistance in framing this Report. In some respects it differs from the recommendations which have here been made; in principle, it agrees with them altogether. Novel, therefore, and difficult as the measure may be, we see no reason to doubt its practicability, and we can consequently recommend it with more confidence, and in the belief that while it would obviate all the difficulties which are likely to spring from a registration of assurances, it would provide those benefits in the transfer of land which registration is intended to confer. On the one hand, it will be found, that the expense and delay which must always be occasioned by a retrospective investigation of title,—the evil of accumulating year after year a vast mass of documents in one registry,—the complication and difficulties which would thence arise,—the danger of disclosing the private affairs of individuals, and the other objections above adverted to, in a registration of assurances, will all be avoided. On the other hand, it will be seen that the removal of those impediments with which the alienation of land is surrounded,—the ready means thereby afforded of raising money by temporary loans for purposes of improvement,—the facilities for partial or complete alienation, without disturbing existing interests, or interfering with the rights of settling property which are now enjoyed under the present law,—and the perfect security that a purchaser may acquire by obtaining easily a parliamentary or warranted title,—will confer on land an enhanced value, and free the owners of it from those embarrassments to which no other property has ever been subjected.

84. *Objections urged against it.*]—The main objections which have yet been urged against such a measure are, first, that it excludes from the registered title all those various modifications of ownership which the law allows, other than fee simples, mortgages, and leases; and, secondly, that the warranty of title to lands will be open to serious inconveniences. We will make some remarks on each of these objections.

85. *First objection as to the limited extent of the measure.*]—With regard to the first objection, it must be admitted that the benefits intended to be conferred by registration are confined, in the first instance, to the registration of the fee simple, mortgages, and leases. These, it is to be remembered, are the properties in land which most usually form the subject of sale and transfer. Transfers of other rights and interests are for the present excluded from the proposed register, because it is desirable, at least in the first instance, that the plan should not be unnecessarily complicated. In the meantime there is nothing to interfere with those rights and interests. They will be as capable of being exercised and enjoyed after the establishment of the register as they are now. The measure proposed expressly preserves them. And as long as it preserves them, the owners of them will have all the control over the management of the property with which the law now invests them, and which their settlors or testators intend that they should have. Further than this it might be imprudent to go, before the measure has moulded and adapted itself to the practical wants and habits of the community.

86. *Second objection as to warranty.*]—With regard to warranty, it is considered by some of the Commissioners to be contrary to the general policy of this country to allow the State to enter into pecuniary speculations of any description; that though there may be reason to believe that the sum which landowners would be willing to pay for such a warranty would be more than equivalent to the risk incurred by the Government, or, in other words, that the speculation would be a good one; yet, as there is no experience on the subject, no confident opinion can be expressed; and that it is obvious that if at any time there should be carelessness or fraud on the part of the officers of the Government who have the management of the scheme, the loss to the State might be of a most serious description.

In the second place, it is said that there is a great objection to the plan arising out of the manner in which it deals with the rights of individuals. It provides that any person establishing a claim on land guaranteed by the Government shall forfeit his right or interest in the land itself, and in lieu receive a money compensation to be paid by the State, and apparently to be also estimated by the State; and it is argued to be most objectionable that the contract between an individual and the State should be allowed to affect the rights and interests of a third person, who is not in any way cognizant of or a party to the contract.

Independently of the foregoing objections, which apply to the principle of the scheme, it is considered that there are considerable practical difficulties incident to its execution; and that but few of the titles to land would bear so searching an investigation as would be necessary in order to obtain the warranty. It is lastly said that the costs and expenses of an application for a warranty would be serious and certain, the result of the application would be doubtful, and in the event of a refusal a stain would be cast upon the title, and its defects

(*p*) Mr. Bartle J. Frere's evidence.
(*q*) Mr. J. Meadows White's evidence.
(*r*) Mr. Kettle's evidence.
(*s*) See Mr. Lewis's Bill, App.

made known and exaggerated. We have considered these objections, and agree in thinking that they are entitled to attention; but a majority of the Commissioners have come to a conclusion in favour of the principle of warranty. They can see no reason why the great benefits which have been conferred in Ireland on encumbered properties should not, by analogous measures, be extended to unencumbered properties, and also to this country. A parliamentary or warranted title is the one great desideratum to enable parties to deal as freely with their landed estates as they now can do with their personal effects. If the title is investigated with ordinary care, as no doubt it would be, by the counsel and solicitors selected for that purpose, the risk run is more nominal than real. If it should turn out that there was some claimant whose possible rights had been overlooked, he would receive compensation which the premiums paid by way of insurance would probably be more than sufficient to cover. If the purchaser should think that these premiums would entail upon him a new expense, the answer is, that he need not incur it unless he derives an equivalent advantage. But instead of this we believe he would feel that this advantage was more than an equivalent for that expense by the clear title which he would thus obtain, by the additional value given to his land, and by the perfect security in which he would hold it.

Answer to the Inquiry as to "the Advantages and Disadvantages" of the Plan recommended.

87. *Whether there are any disadvantages attending the system.*]—Having now stated the leading details of the plan of registration we recommend, we propose to consider, in answer to the inquiry intrusted to us, "the advantages of and disadvantages attending such a system."

88. In regard to what may be the disadvantages of registration of title, we may refer to the different parts of this Report in which objections and difficulties have been adverted to and dealt with. We have shown that the existing evils are great; and we have acted upon the principle laid down by the Real Property Commissioners, that it should be made out, to a reasonable degree of certainty, founded on a careful investigation of facts and mature deliberation, that the proposed remedy is practicable, and that it will be effectual, that it is the best that can be devised, and that it will not itself be an evil, or productive of evils, equal, or nearly equal, to those against which it is provided. We are of opinion that the plan recommended by us fulfils or satisfies all these conditions; and at all events these objections, even if allowed to have the character of disadvantages, cannot be deemed seriously to detract from the very great benefits which landed proprietors, and the buyers and sellers of land, will derive from the measure we have recommended.

89. *The advantages of the system.*]—The advantages of the system will consist in giving facilities to the sale and transfer of land in the following respects:—

1. It will secure the principal benefits and advantages sought to be attained in a system of registration of deeds (*t*).

2. The system will render unnecessary retrospective investigation of the title as to all dealings subsequent to the commencement of the registration, and will gradually operate to dispense with such investigation altogether.

3. It will simplify the title to real property for the future (though it will not, except where warranty is obtained, confer at the outset a parliamentary title as against interests existing anterior to the registry), and it will have this effect even though it should happen that no concurrent improvements are effected in the general law of real property.

4. It will make purchasers of the fee and leases perfectly secure.

5. It will simplify to the utmost possible extent the forms of transfer and the modes of conveyance.

6. It will tend to increase the saleable value of land.

The system will effect this last benefit (*u*) by removing difficulties, and thus increasing the desire to invest in land. It will also enable the buyer to ascertain his expenses accurately. At present the expense depends partly upon matters which come to his knowledge only after he has entered into the contract. There will, in fact (*v*), be a saving to the buyer of the expense of investigating title and conveyance, and to the seller of preparing the title. The seller will indeed still have to bear the expenses of distributing the purchase money, but this he must do under the present or any other system.

7. It will tend to lower the rate of interest on loans secured upon land. It has been well said that the greatest condemnation of the existing system of lending money on land is the reluctance which bankers, the natural traders in loans, have to lend on mortgage or judgment. The security which they refuse, careless trustees, ignorant people who have savings, and widows and others who have some small provisions, are advised to accept, and in this way the whole risk of bad security is thrown on the classes least able to bear it (*x*).

8. It will confer facilities for the sale of large estates in lots. We agree in the statements of one of the witnesses, that the necessity for investigating the past title, and procuring the means of proving it and substantiating it for the future, places great obstacles in the way of selling a considerable estate in numerous lots; as it is generally difficult and always expensive to furnish each purchaser with the necessary evidence. One of the important advantages of a new and parliamentary title is found in the great facility it confers for the sub-division of estates upon a sale.

9. It will enable persons to obtain a warranty of their titles at the same or nearly the same expense as that incurred in an ordinary purchase under the present system.

Miscellaneous Recommendations and Observations.

90. *Improvements in the general law and practice of conveyancing.*]—But it is our opinion that as the register cannot in the first instance be made to confer an immediate statutory title in ordinary cases, some changes in the general law, having a tendency to simplify title, should be made concurrently with the establishment of the registry. The evidences of title and its devolution may be rendered more simple in various particulars which have been pointed out in the evidence before us, and are hereafter adverted to. By making those improvements in the law, the register, without being made to confer immediate Parliamentary title, may nevertheless be instrumental in producing immediately many of the advantages in regard to simplicity of title and transfer which will result from its own proper and unassisted operation, when its action has become complete. Facility of transfer and simplification of title act and re-act upon each other. We think that the establishment of a register should only be part of a general plan for amending the law of real property, in the particulars presently adverted to. We concur in the opinion of one of the witnesses (*y*), that, considering the cumbrous forms employed in conveyancing, it would be extremely impolitic to establish a register that would, as it were, stereotype a decaying system, and perhaps stand in the way of its thorough reformation; or, in case of its being superseded by a better, would induce the inconveniences of a register begun in one era and continued in another.

The improvements in the law of real property and the forms of conveyancing which have been suggested to us we have thought it advisable to embody in the sketch of a Bill, which has been drawn by one of the Commissioners, and will be found in the Appendix. Thereby the title to real property, independently altogether of the registration we recommend, and during the gradual introduction of the system, would be greatly simplified,—by the abolition of certain technical modes in the creation, limitation, and disposition of estates,—by turning mortgages into mere securities, but with the same powers of recovering the money which are usually conferred on the mortgagee,—and by giving to certain instruments such general effects as are now expressed in a lengthened form, and which add greatly to the cost of the transaction. These provisions do not strictly fall within the main object of the inquiry submitted to us, but they are so nearly allied to and so much connected with it that we have deemed it our duty not to overlook them.

(*t*) There are, however two exceptions:—The exceptions are, that it will not directly tend to make equitable or secondary estates more marketable than they now are, and that it will not afford the means of obtaining evidence of the contents of lost deeds. The former defect or objection will, however, cease to be material if the subordinate register of derivative estates to which we have more than once referred be established, and the objection may at all events be alleviated by an alteration in the law as to the obtaining of priority by the legal estate and the doctrine of tacking, which is one of the amendments of the general law subsequently adverted to in this Report. The latter defect will not, as to future titles, be of any considerable moment as regards purchasers of fee-simple estates, for title deeds will, under the operation of the registry here recommended, become of less consequence than they now are as evidences of title to the fee.

(*u*) Mr. Commissioner Hargreave's evidence.

(*v*) Mr. R. J. Farrer's evidence.

(*x*) Some experience as to the bearing which an improved state of title may have upon the rate of interest is furnished by the Report of the Select Committee of the House of Lords, appointed to consider whether it would not be desirable that the powers now vested in the companies for the improvement of land should be made a subject of general regulation, for it appears from that Report that one great advantage afforded by these companies is, that a landholder holding in fee can borrow cheaper under these Acts than he could otherwise, by reason of the mortgage being a primary charge under the Acts, and by reason of an investigation of title not being required, as in other cases.

(*y*) Mr. Dugmore's evidence.

They are also framed upon the principle recommended by experienced witnesses (*z*), of first deciding on the plan of the register, and then altering and simplifying the general law with reference to that plan. We hope that this Bill, together with the plan which we submit to Your Majesty for the registration of title, will be of use in assisting Parliament to deal at once with the whole subject.

91. *Partial establishment of the register in the first instance.*]—One practical suggestion there is, which it may be useful we should make, with regard to the policy of establishing the register in the first instance partially. As was said (*a*) of registration of deeds, we doubt whether any scheme of indexes, which ingenuity may devise, will be such that registration, with all its incidents, may start into life a perfect system, answering at once every purpose for which it is intended. We think there must be some practical experience, some working of the system, before office arrangements can be made which will be so perfect and simple that information (the non-discovery of which may be prejudicial) may readily be obtained. We therefore conclude that it would be desirable to try the registration partially at first, and establish the system to its fullest extent in some particular county or district. If it should be found to answer the objects for which it is intended, it might be then universally established, or the office created for that county or district might be extended to the whole country.

91. *Peculiar facilities for the establishment of the register in Ireland.*]—Before concluding this Report, we think it right to observe, that the circumstances of landed property in Ireland at the present time afford peculiar facilities for the introduction of an improved system of registration into that part of the United Kingdom. The long-established Register of Deeds, the Ordnance Survey, and the Incumbered Estates Court, in that country, furnish materials and machinery for effecting the transition from the existing system to the new one much more readily and speedily than can be anticipated in England.

We are informed by competent witnesses that the ordnance survey is considered one of the most valuable acts of practical government that has ever been carried out in Ireland. The maps are in universal use in the management of estates, in the sale of land, and in the valuation of land for public and private purposes. The boundaries of the old divisions of the country, such as counties, baronies, parishes, and townlands, are set out on the maps; the poor law unions and electoral divisions are aggregations of townlands, and can therefore be at once ascertained. In the southern counties the maps show the divisions of fields and tenements; and this system is being extended to the northern counties. These maps afford, it is said, the requisite materials to construct a public map as a basis of registration. The scale of the ordnance survey is for the entire country six inches to the mile, and the separate maps of towns are on a scale of sixty inches to the mile.

The existing (*b*) and long-established registry of deeds in Ireland appears to afford additional facilities for ascertaining satisfactorily the existing titles to and interests in land in that country. These facilities might, of course, be increased by the application for that purpose of the machinery of the Incumbered Estates Act.

Great as are the benefits, however, which the Incumbered Estates Court has conferred upon titles in Ireland, it is a remarkable circumstance that there is no provision for perpetuating and continuing, as to future transactions, the parliamentary title obtained upon a purchase from that court. The title is unimpeachable as to all transactions prior to the time of the purchase; but immediately after the purchase the transfer of the land becomes subject to the general law, and as to all transactions taking place after the purchase the title is liable to become again involved in complications and embarrassments similar to those from which it was relieved by the sale under the Incumbered Estates Act. Permanent simplification of title and simplicity of transfer are not attained by the Act, and retrospective investigation of the title becomes again necessary (though at present not to the same extent as formerly).

The system, therefore, which we have recommended, is required not less for Ireland than for this portion of the United Kingdom, while, at the same time, as we have already observed, the facilities for its introduction there are much greater than in this country.

93. *The remuneration of solicitors.*] — We take leave further to observe, that we think it will be very difficult to deal fully or satisfactorily with the subject of registration of title without making fresh regulations on the subject of the professional remuneration of solicitors. We observe that the Real Property Commissioners also found it necessary to direct their attention to this subject when making their report in favour of the registration of assurances.

In England a solicitor is allowed to receive such fees only as the judges of the Court assign him, and these fees are so devised as to attach to certain portions only of his work, leaving the rest to be done without fee. In matters of conveyancing, the whole trouble of the transaction is principally compensated by fees assigned according to the length of the various documents. Theoretically, in England, a solicitor is entitled to the same fees for superintending transactions relating to the smallest properties as to the largest. In Scotland, and many foreign countries, the work is principally compensated by a brokerage or commission; a form of remuneration almost universally adopted by the usages of commerce for all other agencies.

The changes we propose for the transfer of land, without materially altering the nature or extent of the more important services rendered by the solicitor, or the professional superintendence and responsibility involved, will interfere with those particular processes to which the courts have thought fit almost entirely to attach the solicitor's right to remuneration.

If, therefore, it is considered desirable to continue to prescribe by law a scale of remuneration for conveyancing business, it would seem right that an opportunity should be given for reconsidering the whole subject of solicitors' fees with reference to conveyancing. The services of solicitors will be necessary in the conveyancing transactions contemplated by the measure we propose, and reliance must still be placed upon their honour and character in performing the important duties and incurring the responsibilities which will still attach to every transfer.

94. We are reluctant to conclude this report without expressing our regret that it has not received the concurrence of one of the commissioners who is known to have given much attention to the subject of registration, and whose opinion on any such subject we all feel to be of weight. While, however, we acknowledge that our report would have derived additional authority, had he felt himself at liberty to affix his name to it, we have the satisfaction, not only of knowing that we have not failed carefully to examine the proposals which he has laid before us, though unable in the result to adopt them, but also that we have had the aid of his deliberations and suggestions, in maturing our views and recommendations, even where they differ from his own.

All which we humbly submit to your Majesty's Royal consideration.

(*z*) Mr. Bellenden Ker's evidence.
(*a*) App. to 2 Re. Pr. Com. Rep., 133.
(*b*) See evidence of Mr. J. B. Murphy.

Correspondence.

DUBLIN.

(From our own Correspondent.)

The General Election.

The general election still continues to be the chief topic of conversation in legal as in all other circles. Most of the solicitors are hard at work in their respective localities as agents and sub-agents for candidates. A general election is a kind of harvest, the more to be prized as it comes but once in five years. It is stated that in the recent contested election for the county of Tipperary, no less than fifty-two solicitors were engaged on one side or the other. This is, however, a county of unusual extent, and can boast of more resident provincial attorneys than almost any other county. The lawyers, as a body, will be well represented in the new House of Commons, although they will not be more numerous than they were in the last. Among the unsuccessful attempts by members of the bar to win seats may be mentioned those of Messrs. Brady, Lawson, Q. C., Hemphill, M'Donough, Q. C., and V. Scully. The last-named gentleman is well known in London as an agitator for reform of the laws of real property, the introducer of a bill to establish a land tribunal, and, I believe, a member of the Real Property Commission, now concluding its labours. Mr. Cairns, Q. C., of the Chancery bar, has again been returned by the first mercantile constituency in Ireland, Belfast. Sergeant Shee will hardly be so fortunate in Kilkenny. It is confidently anticipated that a large number of election petitions will afford work for committees, and for parliamentary counsel and agents, for several months to come. The stringent, but somewhat obscure, clauses of the Act of 1854 have yet to be tested; and, no doubt, a cluster of points on almost every section will be anxiously debated and elaborately decided.

Parliamentary Title.

The first judgment of an appellate court has at length been obtained as to the validity of the title conferred on purchasers, under the Incumbered Estates Court. Several of the judges have had occasion, at different times, to express an opinion on the subject, but until yesterday the Court of Exchequer Chamber had never done so. In *Errington* v. *Rooke*, after a long delay, the judges have delivered their judgments, and, by a large majority, have upheld the title conferred by the Incumbered Estates Commissioners. This decision was confidently expected by the lawyers generally; and it is so fully in accordance with the letter and spirit of the Act, that a fuller notice would be superfluous.

Appointments.

The chairmanship of the county of Dublin (an office nearly equivalent to an English County Court judgeship), vacant by the death of Mr. Kemmis, has been conferred on Thomas O'Hagan, Q. C., an able lawyer and successful advocate, and a Roman Catholic. This office differs from similar offices in England, inasmuch as it does not prevent its holder from practising at the bar.

The office of assistant barrister for Longford, vacant by the translation of Mr. O'Hagan to the more valuable chairmanship of Dublin, has been conferred on Mr. Robert Johnston, of the North West Circuit.

Court Papers.

Queen's Bench.

CROWN PAPER—Easter Term, 1857.

Wednesday, April 22.

Oxfordshire.....The Queen on the prosecution of the Guardians of the Poor of Oxford *v.* The Vice-Chancellor of the University of Oxford.

Birmingham .....The Queen on the prosecution of the Guardians of the Poor, Respondents, *v.* John Smith, Appellant.

Glamorgan.....The Queen on the prosecution of the Cardiff Board of Health, Respondents, *v.* The Taff Vale Railway Company, Appellants.

Brighton .....The Queen *v.* Thomas Beadle.

Northamptonsh....The Queen *v.* Joseph Higham.

W. R., Yorkshire...The Queen *v.* The Inhabitants of the township of Leeds.

Middlesex.....The Queen on the prosecution of the Poor Law Board *v.* The vestrymen of the Vestry of St. Pancras.

Carnarvonshire ...The Queen *v.* The Inhabitants of the Parish of Llanrwst, in Denbighshire.

Hull .....The Queen on the prosecution of the Local Board of Health, Respondents, *v.* John B. Barkworth and Another, Appellants.

Lancashire .....The Queen on the prosecution of Robert T. Parker & Others, Justices, Respondents, *v.* John Gerrard, Appellant.

Wednesday, April 29.

Essex .....The Queen *v.* The Rev. Charles Eyre, Clerk.

Common Pleas.

DEMURRER PAPER.—Easter Term, 1857.

Wednesday, 15th April .....
Thursday, 16th " .....
Friday, 17th " .....
Saturday, 18th " .....
} Motions in arrest of judgment.

SPECIAL ARGUMENTS.

Monday, April 20.

Dem. Tobias *v.* Jarchow—to stand over till Exposit *v.* Bowden in Exchequer Chamber is disposed of.

Co. Ct. Ap. London and North-Western Railway Company, Appellants, *v.* Grace, Respondent—case to be amended.

Dem. Goodman *v.* Spencer.
" Florence *v.* Jenings.
" Jenings *v.* Florence.

Spl. Case. Gilkison & Another *v.* Middleton & Others.

Spl. Ver. Sheetry *v.* Professional Life Assurance Company.

Thursday, April 23.

Dem. Tindall *v.* Hibberd.
" Bloomer *v.* Darke.
" Phillips & Another *v.* Clark.

Monday, 27th April.....
Thursday, 30th " .....
} Special arguments.

REMANET PAPER.—ENLARGED RULES.

To the First Day of Term.

In the matter of Peter Healey, Gent., one, &c.
" " Messrs. Corner, Gent., two, &c.
Hodges & Another *v.* Callaghan.
In the matter of James Duncombe, Gent., one, &c.

Walter & Ux. *v.* Whitaker stands over until proceedings in Chancery are determined.

Dawson *v.* Williams, Clerk, stands over until Spl. Case in Queen's Bench is disposed of.

NEW TRIALS.

Michaelmas Term, 1856.

London. Tetley *v.* Easton & Another.
" Campbell *v.* Corley.
" Taylor & Another *v.* Stray.
" Cockerell *v.* Aucompte.

Hilary Term, 1857.

Middlesex. The Great Northern Railway Company *v.* Wyles & Another.
London. Hodgkinson, Knt., *v.* Fernie & Another.
" Simond, survivor, &c., *v.* Braddon.
" French *v.* Styring.
" Muskett & Others, assignees, *v.* Bird.
" Gorrissen & Others *v.* Perrin & Others.
" Wickens *v.* Steel & Another.
Middlesex. Giles *v.* Spencer.
London. Michael *v.* Gillespy.
Middlesex. Patten *v.* Rea.
" Pound *v.* Dawson & Another.
" Roberts *v.* Eberhardt.

STANDING FOR JUDGMENT.

Fraser *v.* Hatton & Another.
Loder *v.* Kekule.

Births, Marriages, and Deaths.

BIRTHS.

BRAITHWAITE—On April 4, at 65 Mornington-road., Regent's-park, the wife of J. B. Braithwaite, of Lincoln's-inn, barrister-at-law, of a daughter.

KEANE—On April 8, at Euston-square, the wife of David Keane, Esq., barrister-at-law, of a daughter.

SWABEY—On April 5, the wife of M. C. Merttins Swabey, D.C.L., of Doctors-commons, of a daughter.

MARRIAGES.

BRODRICK—HAVISIDE—On April 2, at the parish church, Walthamstow, Essex, by the Rev. Robert Barry, M.A., Rector of North Tuddenham, Norfolk, Thomas Brodrick, Esq., of Lamb-building, Middle Temple, London, to Mary Snaith, only daughter of Captain Haviside, of the Rectory Manor-house, Walthamstow.

GRANT—TODD—On April 8, at Colinsburgh, Fife, N.B., by the Rev. William Milligan, M.A., James Grant, of Symond's-inn, London, solicitor, to Mary Anne, second daughter of John Todd, of Colinsburgh, Esq., surgeon.

DEATHS.

ALLNUTT—On Mar. 31, at 15 Ladbroke-villas, Notting-hill, in his 9th year, George Henry, the only child of George S. Allnutt, Esq., barrister-at-law.

BEECHAM—On Mar. 31, Beecham Helen, youngest child of Mr. Beecham, solicitor, Hawkhurst, in her 20th year.

HASTIE—On Mar. 30, in the 10th year of her age, Mary Edith, youngest daughter of Mr. James Hastie, of Gray's-inn-square, and of Camberwell-grove, solicitor.

HODGSON—On April 2, Robert Hodgson, of 32 Broad-street-buildings, London, solicitor, in the 60th year of his age, universally lamented.

MACAULAY—On April 3, at Brighton, James Macaulay, Esq., of Chancery-lane, London, barrister-at-law.

SIDEBOTTOM—On April 8, at Bury St. Edmunds, Edward Venner Sidebottom, Esq., of the Middle Temple, barrister-at-law, in his 74th year.

SIMPSON—On April 6, at Mary-cottage, Trinity, Mrs. Matilda Gertrude Simpson, relict of the late Charles Simpson, Esq., of Sunderland, barrister-at-law.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

Bruce, Henry, of Mincing-la., merchant, £50 Consols.—Claimed by Henry Bruce.

Coulstock, Susannah, Merstham, Surrey, widow, £51 : 15 : 6 Consols.—Claimed by Susannah Coulstock.

De Ros, Hon. William Lennox Lascelles Fitzgerald, Thames Ditton, Surrey, £111 : 2 : 3 Consols.—Claimed by Right Hon. Lord De Ros.

Durbin, Daniel, Nailsea, Somerset, yeoman.—£52 : 10 New 3 per Cents.—Claimed by Hannah Rowles, widow, administratrix.

Dyer, Elizabeth, deceased, Northumberland-st., Marylebone, spinster, £117 : 13 : 10 New 3 per Cents., formerly New £3 10 per Cents.—Claimed by Frederick William Caldwell, executor of Rev. Thomas Dyer, who was surviving executor of Rev. William Charles Dyer, the surviving executor.

Evans, William, Holywell-st., Shoreditch, paperstainer, £2 : 7 : 11 Long Annuities.—Claimed by William Evans.

Kitching, Ann, Borough-rd., Southwark, spinster, £3 : 19 : 6 Long Annuities.—Claimed by Ann Kitching.

Lindley, Charles, Percy-st., Bedford-sq., Gent., £25 New 3 per Cents., formerly £3 : 5 per Cents.—Claimed by Sampson Sandys, administrator.

Lowder, Charles, & Johnson Phillott, Bath, bankers, £200 Reduced.—Claimed by Charles Lowder and Johnson Phillott.

Magens, Magens Dorrien, banker, George Dorrien, merchant, & Thomas Dorrien, jun., banker, London, £230 Reduced.—Claimed by John Dorrien Magens, sole executor of Magens Dorrien Magens, who was the survivor.

Myers, Judith, Burton-st., Burton-crescent, spinster, £178 Reduced.—Claimed by Judith Ellis, widow, formerly Judith Myers, spinster.

Palmer, Mary, Lisson-grove, Marylebone, spinster, £120 New 3 per Cents.—Claimed by Mary Palmer.

Pearce, John, Beckenham, Kent, bricklayer. £25 Consols.—Claimed by John Pearce.

Porter, George, Fort-pl., Bermondsey, architect, £900 New 3 per Cents.—Claimed by George Mathews, acting executor.

Rumens, Charlotte, Richmond, Surrey, spinster, now wife of George Robertson, butcher, £7 : 5 per annum Long Annuities.—Claimed by Charlotte Robertson, formerly Charlotte Rumens, spinster.

Samuel, Philip, of the Stock Exchange, gent., & Adolphus Phillips, a minor, £354 : 9 Consols.—Claimed by Philip Samuel, the survivor.

Thomson, William Gordon, King's Arms-yd., Coleman-st., £43 : 18 : 6 New 3 per Cents., formerly £3 : 5 per Cents.—Claimed by William Gordon Thomson.

Wilkinson, John, Lincoln's-inn, Esq., £70 : 9 : 9 New 3 per Cents.—Claimed by John Wilkinson, his administrator.

next of Kin

Advertised for in the London Gazette and elsewhere during the Week.

Jacobs, Mary (who died on Jan. 16, 1852), spinster, Great Bromley, Essex.—The children of John Death, the son of Thomas Death, the

half brother of the mother of Mary Jacobs, or their legal personal representatives, to come in and prove their respective claims, on or before July 1, 1857, at the Master of the Rolls' Chambers.

Montgomery, Howard Alexander, M.D.—His relatives to apply by letters only to B., care of — Manière, Esq., Solicitor, 31 Bedford-row.

Smyth, George Edward (a lunatic), now residing at Hampton, formerly of Brunswick-pl., City-rd..—Persons claiming to be heirs-at-law, or entitled under the statutes for the distribution of intestates' estates (in case he were now dead intestate), forthwith to come in and prove their heirship or kindred before the Masters in Lunacy, at 45 Lincoln's-inn-fields. G. E. Smyth is the only son of Edward Smyth, Holloway-ter., Holloway, by Ann, his wife, formerly Ann Wright, spinster.

Stoddart, Joseph (who died on Mar. 15, 1857, aged about 66 years), of Beverley, in the East Riding of the county of York (formerly bookbinder and printer), son of the late Joseph Stoddart, of York, excise-officer, and was put an apprentice to Thomas Appleby, of North Shields, in the county of Northumberland, bookbinder, in the year 1805.—Next of kin to apply to Mr. Thomas Forge, Beverley Bank, Beverley.

Taylor, Thomas (who died on June 12, 1823), Gent., of the Grove, Bath.—The children of his late brother James Taylor, his sister Hannah Hillier, and his late sister Anne Taylor, and the personal representatives or representative of any such children or child, or persons claiming under any settlement or other incumbrance made by any such children, to come in and prove their claims, on or before May 1, at V. C. Stuart's Chambers.

Thompson, Richard, who married Elizabeth, and had three children—Frederick, Edward, and Maria Thompson, living in Dover, 1825 to 1836.—Relatives to apply by letter only to B., care of — Manière, Esq., Solicitor, 31 Bedford-row.

Thornton, Simon (who died Mar. 25, 1854), Gent., of Totnes, Devonshire, deceased.—Eldest cousins of George Midwinter, Miller, of North Leach, Gloucestershire, on the side of the above-named Simon Thornton, to apply (proving their relationship) to Messrs. Presswell & Michelmore, Solicitors, Totnes, Devonshire.

Money Market.

CITY, Friday Evening.

This being Good Friday was observed as a holiday, and the Bank, Stock Exchange, and other places of public resort, were closed.

The depression of the English Funds which followed, in last week, the resolution of the Bank directors to advance the rate of discount and interest, was increased by the unfavourable Bank return. A further slight restriction of accomodation has followed during this week. Money has been in active demand. The decline of Consols during the week has amounted to 1 per Cent. Foreign Securities have also sustained material depression. The large payments which became due on the 4th of this month were well met, and the settling day on the Stock Exchange passed favourably.

The payment to the public of the April dividends at the Bank, and of the life annuities at the National Debt Office, commenced on Wednesday.

From the Bank of England return for the week ending the 4th of April, 1857, which we give below, it appears that the amount of notes in circulation is £19,537,705, being an increase of £480,835; and the stock of bullion in both departments is £9,343,720, showing a decrease of £643,839, when compared with the previous return.

The agents of Russia appear to be pressing forward in Paris the grand scheme of railways announced some time back. The chief contractor is Baron Stieglitz. In order to overcome some portion of his difficulties, he is supposed to have obtained a state guarantee of the shares to the extent of two-thirds of their value. This arrangement proves that the Russian Government is anxious to prevent failure, and will make the shares more acceptable on the exchanges of Europe. The prospectus published in Paris is for an issue in the present month of 600,000 shares of 500f., equal to £20 each. The deposit per share is to be equal to £6, and the total amount of the present intended issue of shares is equal to £12,000,000. Circumstances connected with England have been dwelt upon, in order to prove the improbability of such undertakings becoming profitable in Russia; but the circumstances of Russia are so different from ours, that no safe analogy can be maintained. It is much more reasonable to draw from the United States of America conclusions relating to the probable results of railway undertakings in Russia. In America, the country to be traversed by the rail is a wilderness without trade, without towns, without population. The rail is begun. People follow and buy the adjacent land, and form communities. In Russia as in America, vast tracts of unappropriated land remain at the disposal of the Government. The rail may be traced, as in the United States, through many miles of wilderness but it may have the advantage of terminating, not in the deep forest as is usual in America, but in the cultivated and well-peopled district of Warsaw or Odessa. In many parts of Russia production has no limit, except the difficulty of conveying its fruits to market, and this the railway will remove.

English Funds.

English Funds.	Sat.	Mon.	Tues.	Wed.	Thur.	Fri.
Bank Stock	...	218½ xd	—	218 16	217 16	
3 per Cent. Red. Ann.	...	92 x d	91⅝ ⅜ ½	91½ ⅝	91½ ½ ⅝	
3 per Cent. Cons. Ann.	93½ ¼	93½	92⅝ ⅝	92½ ⅝	92½ ⅝	
New 3 per Cent. Ann.	...	92½ ⅝ ½	91⅝ ½	91½	91⅝ ⅝	
New 2½ per Cent. Ann.	...	...	76	...	...	
Long Ann. (exp. Jan. 5, 1860)	...	2⅝	...	2½	2⅝	
Do. 30 years (exp. Apr. 5, 1885)	...	18	...	...	17 15-16	
India Stock	222½	222½	...	223½	224½ 5	
India Bonds (£1,000)	...	1s. dis.	...	...	...	
Do. (under £1,000)	par	1s. dis.	5s. dis.	2s. dis.	par	
Exch. Bills (£1,000) Mar.	...	3s. pm.	3s. pm.	1s. pm.	2s. pm.	
June	2s. dis.	...	2s. dis.	6s. dis.	2s. dis.	
Exch. Bills (£500) Mar.	...	...	3s. pm.	...	...	
June	...	2s. dis.	2s. dis.	2s. dis.	2s. dis.	
Exch. Bills (Small) Mar.	4s. pm.	4s. pm.	...	...	...	
June	1s. dis.	...	...	6s. dis.	2s. dis.	
Exch. Bonds, 1858, 3½ per Cent.	...	...	...	...	98½ ⅝	
Exch. Bonds, 1859, 3½ per Cent.	98⅞	...	98⅝	...	98½ ⅝	

Railway Stock.

Railways.	Sat.	Mon.	Tues.	Wed.	Thur.	Fri.
Bristol and Exeter	...	91	...	...	91	
Caledonian	69½ ⅝	69½ ½	68⅝ 9½	68⅝ ½	68⅝ ½	
Chester and Holyhead	...	...	...	35½ ⅜	35½ 6	
East Anglian	...	...	...	19⅝	...	
Eastern Union A stock	...	...	...	...	...	
East Lancashire	...	100 x n	...	...	...	
Edinburgh and Glasgow	...	56½ ⅜	...	...	56	
Edin., Perth. & Dundee	...	35 4⅜	34⅜ x d	34 x d	34 x d	
Glasgow & South Western	...	...	...	...	...	
Great Northern	97⅝	97½	96½ 7	96½	96½	
Gt. South & West. (Ire.)	...	...	104	...	103⅝ 5	
Great Western	67½	67⅝ ½	66⅝ ½	67 6⅝	66⅛ ⅜	
Lancashire & Yorkshire	101⅞ 2½	102½ ½	101½ ⅜	100⅝	101⅛	
Lon., Brighton, & S. Coast	108⅝	108	108½	108	108	
London & North Western	105⅞ 6	106½ 6	105½ ½	105 4½	104⅝ 5	
London and S. Western	...	...	102	101⅝ ⅜	101½ 1	
Man., Shef., and Lincoln	...	39½ ½	38⅝ ½ ⅝	38⅝ ⅞ ⅝	38½	
Midland	82½ 2	82½ 2	81½ ½	81½ 80⅝	81½	
Norfolk	...	58	58½	59	59	
North British	45	45	44⅝ 5	44½ ½ ⅜	43⅝ 44½	
North Eastern (Berwick)	87 6	86½	86½ 7⅛	86½ ⅜	86½	
North London	...	97	...	...	... ⅞	
Oxford, Worc. & Wolv.	...	31 30½	30½ ⅝	...	29⅛ ⅞	
Scottish Central	...	...	...	...	...	
Scot. N.E. Aberdeen Stock	...	26	...	...	25½	
Shropshire Union	...	...	49½ 8	...	...	
South-Eastern	...	75½ ⅞	75½	74½ ½	73½	
South-Wales	88 7½	87½	...	...	...	

Bank of England.

AN ACCOUNT, PURSUANT TO THE ACT 7TH AND 8TH VICTORIA, C. 32, FOR THE WEEK ENDING ON SATURDAY, THE 4TH DAY OF APRIL, 1857.

Issue Department.

	£		£
Notes issued	23,045,180	Government Debt	11,015,100
		Other Securities	3,459,900
		Gold Coin and Bullion	8,570,180
		Silver Bullion	...
	£23,045,180		£23,045,180

Banking Department.

	£		£
Proprietors' Capital	14,553,000	Government Securities (incl. Dead Weight Annuity)	11,645,974
Rest	3,842,182	Other Securities	21,649,787
Public Deposits (including Exchequer, Savings' Banks, Commissioners of National Debt, and Dividend Accounts)	9,019,533	Notes	3,507,475
		Gold and Silver Coin	773,540
Other Deposits	9,419,012		
Seven day & other Bills	743,049		
	£37,576,776		£37,576,776

Dated the 9th day of April, 1857. M. Marshall, Chief Cashier.

London Gazettes.

Tuesday, *April* 7, 1857.

COMMISSIONER TO ADMINISTER OATHS IN CHANCERY.

Winn, George, of Askrigg and Hawes, Yorkshire, Gent.—*Mar.* 31.

Bankrupts.

Tuesday, *April* 7, 1857.

BISHOP, Henry, Money Scrivener, Dursley, Gloucestershire. April 17 and May 11, at 11; Bristol. *Com.* Hill. *Off. Ass.* Miller. *Sols.* Bevan & Girling, Bristol. *Pet.* April 1.

BRADSHAW, James, & Aaron Collinson, Cotton Manufacturers, Burnley, Lancashire. April 23 and May 14, at 12; Manchester. *Off. Ass.* Hernaman. *Sols.* Shaw, Sutcliffe, Tattersall, & Handsley, Burnley; or Sale, Worthington, & Shipman, Manchester. *Pet.* Mar. 26.

BULMER, William, Grocer, Bedale, Yorkshire. April 17 and May 8, at 11; Leeds. *Com.* West. *Off. Ass.* Young. *Sols.* Newton & Robinson, York; or Bond & Barwick, Leeds. *Pet.* Mar. 30.

COPLAND, Charles, & William George Barnes (Copland, Barnes, & Co.), Provision Merchants, Botolph-la., and Oriental-pl., Southampton. April 24, at 1, and May 25, at 11; Basinghall-st. *Com.* Goulburn. *Off. Ass.* Nicholson. *Sols.* Linklaters & Hackwood, 17 Sise-la. *Pet.* April 3.

DOWLAND, Frederick Blucher, Builder, 3 Dacre-pl., Church-la., Lee, Kent. April 17 and May 19, at 11.30; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sol.* Stopher, 52 Cheapside. *Pet.* April 6.

EASTON, John, Builder, 20 Clapham-rd.-pl., Clapham-rd. April 17, at 12.30, and May 22, at 11; Basinghall-st. *Com.* Fane. *Off. Ass.* Cannan. *Sol.* Crouch, 8 Gray's-inn-sq. *Pet.* April 6.

GIBBON, William, Grocer, Spenny Moor, Durham. April 20, at 11, and May 26, at 12; Newcastle-upon-Tyne. *Com.* Ellison. *Off. Ass.* Baker. *Sols.* Scaife, Royal-arcade, Newcastle-upon-Tyne; or Bolding & Simpson, 17 Gracechurch-st., London. *Pet.* Mar. 19.

HALL, Christopher, (C. Hall & Co.), East India Merchant, 3 Sun-ct., Cornhill. April 23 and May 25, at 12; Basinghall-st. *Com.* Goulburn. *Off. Ass.* Pennell. *Sols.* Linklaters & Hackwood, 17 Sise-la. *Pet.* April 6.

LAWTON, Elijah, Cotton Waste Dealer, Manchester; in copartnership with John Demeza, as Cotton Waste Dealers, Manchester (J. Demeza & Co.). April 22 and May 18, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Boote & Jellicorse, Princess-st., Manchester *Pet.* April 1.

MOORE, Edward Duke, Merchant, Broomfield-house, Southgate, Middlesex, and 114 Minories; in copartnership with Maurice Evans and William John Hoare (E. D. Moore & Co.). April 23, at 2.30, and May 19, at 1; Basinghall-st. *Com.* Holroyd. *Off. Ass.* Lee. *Sols.* Lawrence, Plews, & Boyer, 14 Old Jewry-chambers. *Pet.* April 6.

PYECROFT, Thomas, Carrier, late of Caistor, Lincolnshire, now of Walton, Sandal Magna, Yorkshire. April 21 and May 25, at 11; Leeds. *Com.* Ayrton. *Off. Ass.* Hope. *Sols.* Plaskett, Gainsborough; or Bond & Barwick, Leeds. *Pet.* Mar. 24.

RICHARDS, Samuel, Apothecary, and Shareholder in Royal British Bank, 36 Bedford-sq. April 17, at 2, and May 19, at 12; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sols.* Lawrence, Plews, & Boyer, Old Jewry-chambers. *Pet.* Jan. 31.

ROBERTS, William John, Draper, Burry Port, Pembrey, Carmarthenshire. April 17 and May 11, at 11; Bristol. *Com.* Hill. *Off. Ass.* Acraman. *Sol.* Prideaux, Bristol. *Pet.* Mar. 28.

WHISTON, Frederick William, Druggist, Birmingham. April 22 and May 13, at 10.30; Birmingham. *Com.* Balguy. *Off. Ass.* Christie. *Sols.* Southall & Nelson, 3 Newhall-st., Birmingham; or Hodgson & Allen, Waterloo-st., Birmingham. *Pet.* April 6.

FRIDAY, *April* 10, 1857.

ALEXANDER, Robert, now of the County Prison, Horsemonger-la. (formerly of 15 Crawford-st., Camberwell, Broker and Furniture Dealer). April 21, at 2.30, and May 26, at 12; Basinghall-st. *Com.* Holroyd. *Off. Ass.* Lee. *Sols.* Child & Son, 62 Cannon-st. *Pet.* April 7.

EMMERSON, John, Licensed Victualler, East India Coffee-house, 225 High-st., Poplar, Middlesex, and the Green Gate, Plaistow, Essex. April 23, at 1, and May 22, at 2; Basinghall-st. *Com.* Fane. *Off. Ass.* Whitmore, *Sols.* Lawrence, Plews, & Boyer, 14 Old Jewry-chambers, Old Jewry. *Pet.* April 7.

GUY, Philemon, Builder, 23 St. James's-rd., Holloway, April 23, at 12, and May 25, at 11.30; Basinghall-st. *Com.* Goulburn. *Off. Ass.* Nicholson. *Sols.* Paterson & Longman, 68 Old Broad-st. *Pet.* April 7.

LEWIS, Thomas, Draper, Nantwich, Cheshire. April 24 and May 15, at 11; Liverpool. *Com.* Stevenson. *Off. Ass.* Turner. *Sols.* Sale, Worthington, & Shipman, Manchester; or Evans & Son, Liverpool. *Pet.* Mar. 24.

MOSLIN, Thomas, Carpenter, 8 Cobourg-pl., Old Kent-rd. April 16, at 11, and May 14, at 12; Basinghall-st. *Com.* Evans. *Off. Ass.* Bell. *Sols.* Depree & Austen, 23 Lawrence-la., Cheapside. *Pet.* April 2.

PEPPER, Thomas, Wheelwright, Mountfield, Sussex. April 23 and May 22, at 1; Basinghall-st. *Com.* Fane. *Off. Ass.* Whitmore. *Sols.* J. & S. Langham, 10 Bartlett's-bldgs., Holborn, and Hastings, Sussex. *Pet.* April 6.

ROWE, Thomas, & John Walter Trenery, Ironmongers, Lincoln. April 29 and May 27, at 12; Kingston-upon-Hull. *Com.* Ayrton. *Off. Ass.* Carrick. *Sols.* Reece, Birmingham; or Bond & Barwick, Leeds. *Pet.* Mar. 30.

SPLATT, Sagar Holden, Sailmaker, Ausdell-st., Liverpool. April 30 and May 21, at 11; Liverpool. *Com.* Stevenson. *Off. Ass.* Turner. *Sol.* Cobb, Liverpool. *Pet.* April 8.

THRELFALL, William, Iron Merchant, Preston, Lancashire. April 21 and May 12, at 12; Manchester. *Off. Ass.* Pott. *Sol.* Catterall, jun., Preston. *Pet.* Mar. 31.

WARD, Bartholomew, Stationer, 71 High-st., Southwark, and 37 St. James-pl., New-cross. April 24, at 11, and May 25, at 1; Basinghall-st. *Com.* Goulburn. *Off. Ass.* Pennell. *Sol.* Marsden, Sise-la., City. *Pet.* April 7.

WOOD, Alfred Charles, Linendraper, Pershore, Worcestershire. April 24 and May 15, at 11.30; Birmingham. *Com.* Balguy. *Off. Ass.* Christie. *Sols.* Helme & Walcot, Worcester; or Finlay Knight, Birmingham. *Pet.* April 6.

MEETINGS.

TUESDAY, *April* 7, 1857.

BERRY, John, Richard Berry, & Thomas Berry, Machinists and Ironfounders, Rochdale, Lancashire. May 1, at 2; Manchester. *Com.* Skirrow. *Div.* sep. est. of J. Berry.

BUNTING, Horatio, Seedsman, Colchester. April 17, at 1; Basinghall-st. *Com.* Fonblanque. *By adj.* from Mar. 11. *Last Ex.*

BURCH, William, Last and Boot Tree Maker, 2 & 3 Back-hill, Hatton-garden. April 28, at 11.30; Basinghall-st. *Com.* Fonblanque. *Div.*

CROFTS, William, Hotel-keeper, George's Coffee-house, 213 Strand. April 28, at 12; Basinghall-st. *Com.* Evans. *Div.*

DEEKS, George, Auctioneer, 6 Pembridge-villas, Westbourne-grove, Bayswater. May 14, at 11; Basinghall-st. *Com.* Evans. *Div.*

DICKINSON, William Henry, Joiners' Tool and Table Knife Manufacturer, Sheffield. April 18, at 10; Sheffield. *Com.* West. *Choice of Ass.*

EDWARDS, Thomas, China and Glass Dealer, 26 Eversholt-st., Oakley-sq., St. Pancras. April 21, at 1; Basinghall-st. *Com.* Fonblanque. *By adj.* from Mar. 18. *Last Ex.*

FELL, James, Wholesale Teadealer, Liverpool. April 29, at 11; Liverpool. *Com.* Perry. *Div.*

FUTVOYE, Frederick, Jeweller, 154 Regent-st. and Beak-st. April 28, at 1; Basinghall-st. *Com.* Holroyd. *Div.*

GREEN, James, Coal Merchant, Long Buckley, Northamptonshire. April 28, at 11.30; Basinghall-st. *Com.* Fonblanque. *Div.*

GREEN, John, Patent Rope Manufacturer, Sunderland. April 28, at 2; Basinghall-st. *Com.* Holroyd. *Div.*

HARROLD, Alfred Henry, Chemist and Druggist, Frome Selwood, Somersetshire. May 28, at 11; Bristol. *Com.* Hill. *Div.*

HARTZ, William (Hartz & Co.), Merchant, Mark-la. and Fenchurch-st.; in partnership with Charles Crews and Henry Genge Gray (Crews & Co.). April 29, at 12; Basinghall-st. *Com.* Goulburn. *Div.*

HASTINGS, Smith, Wine Merchant, 46 Lime-st. April 28, at 1; Basinghall-st. *Com.* Fonblanque. *Div.*

HILLS, Arthur, Oil and Vitriol Manufacturer, Woodside, Croydon, and Isle of Dogs, Poplar. April 28, at 1; Basinghall-st. *Com.* Fonblanque. *Div.*

HUNTER, John, Merchant, 12 Little Tower-st.-chambers, Eastcheap. April 28, at 2; Basinghall-st. *Com.* Holroyd. *Div.*

LAWRENCE, Thomas, Upholsterer, 93 Shoreditch. April 29, at 11.30; Basinghall-st. *Com.* Goulburn. *Div.*

OLDFIELD, Alexander, Bookbinder, 17 Devonshire-st., Queen-sq., Bloomsbury. April 17, at 1.30; Basinghall-st. *Com.* Fonblanque. *By adj.* from Mar. 17. *Last Ex.*

OLDFIELD, Alexander, Bookbinder, 17 Devonshire-st., Queen-sq., Bloomsbury. April 28, at 1.30; Basinghall-st. *Com.* Fonblanque. *Div.*

PAUL, John, Corn and Seed Merchant, Bedford, and 51 St. Mary-axe. April 29, at 1; Basinghall-st. *Com.* Goulburn. *Div.*

PERRIN, Francois, Dealer in Foreign Woods, 9A Cleveland-st., Fitzroy-sq. April 29, at 12.30; Basinghall-st. *Com.* Goulburn. *Div.*

PHILLIPS, William, Currier, Norwich. April 28, at 2; Basinghall-st. *Com.* Holroyd. *Div.*

TRAVIS, John, & Thomas Dureden Kershaw, Cotton Spinners, Shaw, Prestwich-cum-Oldham, Lancashire. April 28, at 1; Manchester. *Com.* Jemmett. *Div.*

WELLS, Thomas, 34 Dorset-pl., Clapham-rd. April 17, at 12; Basinghall-st. *Com.* Fonblanque. *By adj.* from Mar. 3. *Last Ex.*

WILLIAMS, Hugh, sen., Hugh Williams, jun., & John Williams, Tailors, 54 West Smithfield. April 29, at 11; Basinghall-st. *Com.* Goulburn. *Div.* joint est.; *final div.* sep. est. of Hugh Williams, sen.; and *final div.* sep. est. of John Williams.

WILSON, Benjamin, Money Scrivener, 16 Gresham-st. April 28, at 12; Basinghall-st. *Com.* Holroyd. *Div.*

FRIDAY, *April* 10, 1857.

BELL, Richard, Contractor and Architect, 17 Gracechurch-st.. May 4, at 1.30; Basinghall-st. *Com.* Goulburn. *Div.*

CLARKE, Thomas Turton, & James Wade, Woollen Yarn Manufacturers, Huddersfield. May 1, at 11; Leeds. *Com.* West. *Div.*

DAY, Ebenezer, Builder, 29 Edgware-rd. May 4, at 1; Basinghall-st. *Com.* Goulburn. *Div.*

JENKINSON, William, Agent and Thread Manufacturer, Salford, Lancashire. May 1, at 12.30; Manchester *Com.* Skirrow. *Div.*

JOHNSON, Walter Robert, Merchant, in co-partnership with Edmund Gwyer, jun. (Johnson & Gwyer), Adelaide-chambers, Gracechurch-st. May 1, at 12; Basinghall-st. *Com.* Fane. *Div.* sep. est. of W. R. Johnson.

MILLIGAN, Walter, William Gandy, & George Gandy, Stuff Merchants, Bradford, Yorkshire. May 1, at 11; Leeds. *Com.* West. *Div.* sep. est. of W. Gandy.

POTTER, Samuel, Livery Stable-keeper, 55 High-st., Marylebone. May 1, at 11; Basinghall-st. *Com.* Fane. *Div.*

DIVIDENDS.

TUESDAY, *April* 7, 1857.

CLAUS, John George, Merchant, Liverpool. Second, 6*d*. *Bird*, 9 South Castle-st., Liverpool; any Monday, 11 & 2.

ECCLES, Richard, John Nuttall, & James Taylor, Cotton Spinners, Tottington, Lancashire. First, 9½*d*. *Hernaman*, 69 Princess-st., Manchester; any Tuesday, 10 & 1.

GREIG, John Peter M'Morland, Cabinetmaker, 1 Bartlett's-bldgs., Holborn, and Wheatsheaf-yard, Farringdon-st. First, 5*s*. *Nicholson*, 24 Basinghall-st.; any Tuesday, 11 & 2.

JARDINE, Thomas, Stone Mason, Liverpool. First, 3*s*. 0½*d*. *Bird*, 53 South Castle-st., Liverpool; any Monday, 11 & 2.

KINGSTON, William, Linendraper, 21 Bridge-rd., Lambeth. First, 6*s*. *Nicholson*, 24 Basinghall-st.; any Tuesday, 11 & 2.

M'Gregor, Donald, Travelling Draper, Manchester. First, 6*s*. 3½*d*. *Hernaman*, 69 Princess-st., Manchester; any Tuesday, 10 & 1.

MILLIGAN, John, Draper, Manchester. First, 2*s*. 3½*d*. *Hernaman*, 69 Princess-st., Manchester; any Tuesday, 10 & 1.

MURRAY, John, Coal Merchant, Middle Wharf, Great Scotland-yard. First, 5*s*. 6*d*. *Nicholson*, 24 Basinghall-st.; any Tuesday, 11 & 2.

RIDGWAY, John, Merchant, Liverpool. Second, 2½*d*. *Bird*, 9 South Castle-st., Liverpool; any Monday, 11 & 2.

SAUL, Robert, & Thomas Kirby, Joiners, Preston. First, 2½*d*. *Hernaman*, 69 Princess-st., Manchester; any Tuesday, 10 & 1.

TAGG, John James, Innkeeper, Bear Hotel, Reading. First, 7*s*. 6*d*. *Nicholson*, 24 Basinghall-st.; any Tuesday, 11 & 2.

WALKER, Emery, Coach Builder, Charles-mews, Westbourne-ter. First, 5*s*. *Lee*, 20 Aldermanbury; Wednesday next, 11 & 2.

WEBB, Robert, Ironmonger, Newport, Monmouthshire. Div. 7*s*. 9*d*. on new proofs, and 1*s*. 9*d*. on old proofs. *Miller*, 19 St. Augustine's-parade, Bristol; any Wednesday, 12 & 1.

FRIDAY, *April* 10, 1857.

BICKERTON, James, Hat Manufacturer, Castle-street, Southwark. Fourth 4½*d*. *Whitmore*, 2 Basinghall-st.; any Wednesday, 11 & 3.

SCOTT, Abraham, Ironmonger, Manchester. First 3*s*. 7*d*. *Fraser*, 45 George-st., Manchester; any Tuesday, 11 & 1.

TIPPLE, John Howse, Wholesale Shoe Manufacturer, Norwich. First, 5½*d*. *Whitmore*, 2 Basinghall-st.; any Wednesday, 11 & 3.

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting.*

TUESDAY, *April* 7, 1857.

BAKER, William, Clockmaker, 38 & 39 Birchall-st., Birmingham. April 30 at 10.30; Birmingham.

Butt, Thomas, Ironmonger, Littlehampton, Sussex. April 28, at 1; Basinghall-st.
Dangerfield, John, sen., Builder, Kirtley, Suffolk. April 30, at 12; Basinghall-st.
Davis, Charles Henry, Builder, New Cross-rd., Deptford. April 29, at 12; Basinghall-st.
Etherington, Edwin, Grocer, Godalming and Aldershott, Surrey. April 29, at 12.30; Basinghall-st.
Foscolo, Peter George, Corn Merchant, 3 Dunster-ct., Mincing-la. April 28, at 11; Basinghall-st.
Garnett, Henry, Stationer, 34 & 35 Strond-st., Dover. April 30, at 1; Basinghall-st.
Hawkey, William Edward, Tailor, 4 Sykes-ter., Mile-end-rd. April 30, at 1; Basinghall-st.
Henderson, George, Apothecary, 7 Stanhope-ter., Regent's-pk. April 30, at 11; Basinghall-st.
King, Thomas, Licensed Victualler, Spalding, Lincolnshire. May 5, at 10.30; Nottingham.
Lane, Thomas, Japanner, Birmingham. April 30, at 10.30; Birmingham.
Lee, Robert, Currier, Cromford, Derbyshire. May 5, at 10.30; Nottingham.
Mascall, Joseph, Grocer, Wolverhampton. April 30, at 10; Birmingham.
Potter, Samuel, Livery-stable-keeper, 55 High-st., Marylebone. April 28, at 1.30; Basinghall-st.
Sankey, Joseph, Wheelwright, Salford, Lancashire. April 29, at 12; Manchester.
Smith, William, Licensed Victualler and Confectioner, Mansfield, Nottingham. May 5, at 10.30; Nottingham.
Truscott, James, Commission Agent, 10 Austin-friars. April 29, at 1.30; Basinghall-st.
Tyler, William, Miller, King's Bromley, Staffordshire. April 30, at 10.30; Birmingham.
Walkinshaw, James, Iron Manufacturer, Monkwearmouth Iron Works, Sunderland. April 30, at 11.30; Newcastle-upon-Tyne.
White, William, Miller, New Crane Mill, Shadwell. May 5, at 12; Basinghall-st.

Friday, *April* 10, 1857.

Baker, William, Licensed Victualler, 5 Tichborne-st., Haymarket. May 5, at 1; Basinghall-st.
Barker, Isaac, Draper, Scarborough. May 4, at 11.30; Leeds.
Collison, Henry William, jun., Provision Merchant, Bath. May 11, at 11; Bristol.
Cornell, Thomas, Carver and Gilder. 63 King-st., Regent-st.; and of Roydon, Essex, Farmer. May 1, at 1; Basinghall-st.
Dearlove, Henry George, Timber Merchant, Palace-row, New-rd. May 4, at 11; Basinghall-st.
Griffiths, James, Builder, Bristol, and Cardiff. May 12, at 11; Bristol.
Horsman, Simon, Teadealer, Westgate, Bradford, Yorkshire. May 4, at 11; Leeds.
Insergent, George, Licensed Victualler, Mall-tavern, Mall, Notting-hill. May 1, at 1.30; Basinghall-st.
Kindred, Frederick, Miller, Framlingham, Suffolk. May 5, at 2; Basinghall-st
Manwaring, Henry Martin, Grocer, Mill-st., Toxteth-pk., Liverpool. May 1, at 11; Liverpool.
Rees, Ann, Grocer, Llanelly, Carmarthen. May 12, at 11; Bristol.
Selfe, Francis, Watchmaker, Sheerness. May 4, at 12; Basinghall-st.
Towan, Stephen, Currier, 13 Buckwell-st., Plymouth. May 4, at 1; Plymouth.
Walker, John, Commission Agent, Blackburn, Lancashire. May 7, at 1; Manchester.

To be DELIVERED, *unless* APPEAL *be duly entered.*

Tuesday, *April* 7, 1857.

Balshaw, William, Joiner, Liverpool. Mar. 30, 1st class.
Deeks, George, Auctioneer, 6 Pembridge-villas, Westbourne-grove, Bayswater. April 2, 1st class.
Kelly, Henry, Builder, 1 & 2 Arthur-st., and 59 Broad-st., Bloomsbury. Mar. 31, 2nd class, after a suspension of twelve months.
Von Dadelszen, Edward, Metal Broker, Liverpool. April 1, 2nd class.
Walker, James, Scrivener, Arundel, Sussex. April 2, 2nd class.
Winchcombe, Henry Phillimore, Shipbroker, Swansea, Glamorganshire. Mar. 10, 2nd class, after a suspension of six months.

Friday, *April* 10, 1857.

Banks, Thomas, Ironmonger, Chorley, Lancashire. April 2, 3rd class.
Beresford, George, Carver and Gilder, 4 Portsmouth-st., Lincoln's-inn-fields, and 19 Wych-st., Strand. April 1, 3rd class.
Buckland, William, Corn Merchant, Ealing. April 3, 2nd class.
Cantrill, Thomas, Railway Grease Manufacturer, 4 River's-ter., York-rd., King's-cross. April 3, 1st class.
Gladstone, John, Jun., Ironfounder, Liverpool. April 2, 1st class.
Harbut, Joseph, Licensed Victualler, Portswood, South Stoneham, Southampton. April 4, 1st class.
Hardacre, Thomas, Mercer and Draper, Settle, W. R. Yorkshire. April 3, 1st class.
Harrold, Alfred Henry, Chemist and Druggist, Frome Selwood, Somersetshire. April 6, 1st class.
Lawrence, Thomas Squire, Bone and Artificial Manure Merchant, 2 Ingram-ct., Fenchurch-st. April 3, 2nd class.
Murray, John, Coal Merchant, Middle-wharf, Great Scotland-yd. April 3, 3rd class; to be suspended for eight months from Nov. 22, 1856.
Reynolds, Joseph James, Mining and Share Broker, 21 Threadneedle-st. April 3, 3rd class.
Richards, Benjamin, Sailmaker, Newport, Monmouthshire. April 6, 3rd class.
Sowden, Samuel Brear, Sharebroker, Leeds. April 3, 2nd class.
Williford, William, Wine and Spirit Merchant, Scarborough, Yorkshire. April 3, 2nd class.
Wren, John, & Edmund Wren, Iron Bedstead and Bedding Manufacturers, 232 Tottenham-ct.-rd. April 4, 2nd class.

Professional Partnerships Dissolved.

Friday, *April* 10, 1857.

Fisher, Edward, & Edward Fisher, jun., Attorneys and Solicitors, Ashby-de-la-Zouch, Leicestershire. April 6; by mutual consent.

Assignments for Benefit of Creditors.

Tuesday, *April* 7, 1857.

Baker, Walter, Grocer, Little Hampton, Sussex. Mar. 10. *Trustees*, J. H. Candy, Surgeon, Little Hampton; J. Evershed, Tallow Chandler, Brighton; F. Bellinger, Grocers, Queen-st., London; H. Minchenar, Warehouseman, Cannon-st., London. *Sols.* Davidson & Bradbury, 18 Basinghall-st.
Barradell, John Bennett, Chemist and Druggist, Leicester. Mar. 21. *Trustees*, W. N. Waldram, Wine Merchant, Leicester; T. Morgan, Victualler, Leicester. *Sol.* Weston, 33 Silver-st., Leicester.
Biggs, John, Boot and Shoe Maker, 40 St. Peters-st., Derby. Mar. 31. *Trustee*, W. Tipping, Currier, 10 St. James's-la., Derby. *Sols.* Briggs & Stone, 47 Full-st., Derby.
Bosbury, John, Corn Dealer, Stanford in the Vale, Berks. Mar. 21. *Trustees*, R. Charlwood, Corn Dealer, Faringdon, Berks; L. W. Surman, Corn Dealer, Wantage. *Sol.* Haines, Faringdon.
Gardner, William, Miller, Horley, Oxfordshire. Mar. 18. *Trustees*, R. Page, Farmer, Northnewington, Oxfordshire; W. Hall, Farmer, Horley. *Sol.* Aplin, Banbury.
Harper, Edward, Chemist and Druggist, Stretford, Lancashire. Mar. 18. *Trustee*, J. Halliday, Public Accountant, Manchester. *Sol.* Simpson, 33 South King-st., Manchester.
Keetley, Robert, Shipbuilder, Great Grimsby, Lincolnshire. Mar. 21. *Trustees*, J. A. Wade, Timber Merchant, Kingston-upon-Hull; T. Oates, Ship Chandler, Great Grimsby. *Sol.* Veal, Great Grimsby.
Nairn, Philip, Miller, Waren Mills, Belford, Northumberland. April 3. *Trustees*, T. Maddison, Farmer, Wandon, Northumberland; E. Henderson, Farmer, Lowick; B. Nicholson, Farmer, Hazlerigg. *Sol.* Woodman, Morpeth.
Pepper, Thomas, Wheelwright, Mountfield, Sussex. Mar. 28. *Trustees*, J. Pepper, Baker, Battel; A. Rolph, Grocer, Whatlington. *Sols.* Ellman & Whitmarsh, Battel.
Southwood, William, Parliament-st., Westminster. Mar. 14. *Trustees*, S. Morley, Wholesale Hosier, Wood-st.; E. Caldecott, Warehouseman, Cheapside. *Sols.* Davidson & Bradbury, 18 Basinghall-st.

Friday, *April* 10, 1857.

Cox, Elisha, Saddler and Harness Maker, Stockbridge, Hants. Mar. 24. *Trustees*, T. Webb Jones, Saddlers' Ironmonger, Colonial-bldgs., 3 & 4 Horse-fair, Birmingham; W. Harris, Maltster, Stockbridge. *Sol.* Burkitt, Curriers' Hall, London.
Ryder, William, Grocer, Sutton, Chester. Mar. 31. *Trustees*, I. Warburton, Grocer, Manchester; W. Carr, jun., Tallow Chandler, Macclesfield. *Sols.* Brocklehurst & Bagshaw, Macclesfield.
Tuxford, Joseph, Miller, Holbeach, Lincolnshire. Mar. 21. *Trustees*, J. Carter, Brewer, Holbeach; T. Bankes, Farmer, Holbeach House, Holbeach. *Sol.* Jones, Holbeach.
Whitehead, Joseph, Grocer, 65 Theobald's-rd., Middlesex. Mar. 13. *Trustee*, E. Skinner, Grocer, Greenwich. *Sols.* Ingle & Gooddy, Hibernia Chambers, London-bridge.

Creditors under Estates in Chancery.

Tuesday, *April* 7, 1857.

Chichester, William (who died in May, 1854), Upham-house, Dymock, Gloucestershire, Gent. Creditors and incumbrancers to come in and prove their debts and incumbrances on or before May 4, at Master of the Rolls' Chambers.
Colquhoun, James (who died in July, 1855), 3 Stratford-pl., Oxford-st. Creditors and incumbrancers to come in and prove their debts or claims on or before May 22, at V. C. Stuart's Chambers.
Fry, George William (who died in Nov., 1856), Timber Merchant, Circus-rd., St. John's-wood, and Irongate Wharf, Paddington. Creditors to come in and prove their debts on or before May 4, at V. C. Kindersley's Chambers.
Imogene, The Ship (which foundered on Sept. 20, 1856). All persons claiming in respect of the loss of this ship to come in and prove their claims on or before May 1, at V. C. Wood's Chambers.
Jobson, Robert, & John Jobson (lately trading under style of Jobson & Co.), Litchurch, Derbyshire. Creditors interested under an indenture of Jan. 14, 1857, to come in and prove their debts or claims on or before April 28, at Master of the Rolls' Chambers.

Friday, *April* 10, 1857.

Jones, John (who died on Feb. 7, 1848), Forgeman, Aston, Birmingham. Creditors to come in and prove their debts on or before April 16, at V. C. Wood's Chambers.

Winding-up of Joint Stock Companies.

Tuesday, *April* 7, 1857.

Bastenne Asphalte or Bitumen Company, heretofore called the Bastenne and Gaujac Bitumen Company.—Master Humphry will, on April 21, at 1, at his Chambers, proceed with the further settlement of the list of contributories. *By adj.* from Mar. 31. And on April 21, at 11, to dispose of the claims of creditors, who are requested to place their claims on the file of proceedings, and to give notice to Mr. Goodchap, Walbrook-house, Walbrook, four days (at least) prior to the day of such meeting.
Bituminous Shale Company.—V. C. Stuart peremptorily orders a call of £5 per share on each contributory, and that he pay on April 21, at 12, the balance (if any), after crediting his account in the Company's books with all sums which may have been paid in excess of £55 per share, and after debiting such account with the said call, to Mr. H. Smith Styan, 4 Stone-bldgs., Lincoln's-inn.

Scotch Sequestrations.

Tuesday, *April* 7, 1857.

Ross, David, Merchant, Bridge-end, Alness. April 16, at 11, Commercial Hotel, Invergordon. *Seq.* April 4.

Friday, *April* 10, 1857.

Garvin, Robert, Merchant, Kinross. April 21, at 1, Kirkland's-inn, Kinross. *Seq.* April 7.
Hendrie, John, Horse Dealer, 23 Garscube-rd., Glasgow, April 15, at 12, Globe-hotel, George-sq., Glasgow. *Seq.* April 4.
Hislop, James, Baker, Hawick. Apr. 17, at 12, Tower-hotel. *Seq.* Apr. 4.
M'Bride, John, & William M'Bride (M'Bride & Co.), Power Loom Cloth Manufacturers, Albyn Works, Glasgow. April 16, at 1, Glasgow Stock Exchange. *Seq.* April 4.
Scott, Hannah (Widow of James Scott, Publican, Edinburgh), Prisoner in the Prison of Edinburgh. April 18, at 12, Dowell & Lyon's Rooms, 18 George-st., Edinburgh. *Seq.* April 8.